

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-35762-2018

Date of decision:-3.10.2018

Mamta

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Manoj Pundir, Advocate
for the petitioner.

Mr.Neeraj Poswal, AAG, Haryana.

H.S. MADAAN, J.

This petition for regular bail has been filed by petitioner – Mamta– an accused in FIR No.1803 dated 23.12.2017, under Sections 323 IPC and Sections 4, 6, 17 of the Protection of Children from Sexual Offences Act, 2012 and Section 75 of Juvenile Justice (Care and Protection of Children) Act, 2015, registered at Police Station City, Jagadhri, District Yamuna Nagar.

Briefly stated, the facts of the case, as per prosecution story

are that District Child Protection Officer, District Child Protection Unit, Yamuna Nagar had submitted a complaint addressed to SHO, P.S. City, Jagadhri on 23.12.2017 seeking taking of legal action in case of minor girl (name withheld to protect her identity in view of Section 228-A IPC and as per the directions given by the Hon'ble Apex Court in case titled State of Karnataka Vs. Puttaraja, 2004(1) RCR(Cri.) Supreme Court, 113 (SC) and referred to as *the prosecutrix*) daughter of Bango, resident of Murmura Odisha, who was residing at New Mahavir Colony, Jagadhri. In the said complaint, it was stated that from one of the neighbour, where the prosecutrix was residing, an information was received in the office of District Child Protection Unit, Yamuna Nagar; that in the said complaint, it was mentioned that minor girl belongs to Odisha, came from Delhi a few months ago at the residence of Rajesh Kumar; that the minor girl told the neighbour that owner of the house usually beat her and physically abuses her; that accordingly a team comprising Protection Officer, NIC and other persons including a Lady Constable visited the house of Rajesh Kumar, where the minor girl was residing and she was rescued and was taken to Child Welfare Committee, Yamuna Nagar, where she disclosed that she had come there six months earlier; that Mamta – wife and Kapoor Chand – brother of Rajesh Kumar had brought her from Delhi and Rajesh Kumar sexually abused her and whenever she objected, she was given beatings.

Accordingly, formal FIR was registered in the matter. The investigation in the case started, during the course of which, statements of witnesses were recorded. Statement of minor girl was got recorded under

Section 164 Cr.P.C. on 23.12.2017. She was got medically examined on that very day. During the investigation, it was found that petitioner – Mamta used to bring persons from outside and forced the minor girl to do wrong acts with them and when she refused to do so, the petitioner would give her severe beatings. The husband of the petitioner namely Rajesh Kumar and his brother Kapoor Chand also used to do wrong acts with such minor girl. The petitioner Mamta, her husband Rajesh Kumar and Kapoor Chand were arrested on 23.12.2017. The ossification test of the minor girl revealed that she was aged about 15 years. After completion of investigation, the accused have been challaned and are facing trial. Out of 18 PWs cited, 11 PWs are said to have been examined, whereas five PWs given up and now two prosecution witnesses remain to be examined. The petitioner Mamta had filed an application for regular bail in the Court of Sessions, which was declined by learned Additional Sessions Judge (Exclusive Court for Heinous Crimes Against Women and children), Yamuna Nagar at Jagadhri vide order dated 3.7.2018, as such, she has approached this Court with the same request.

Notice of the petition was given to respondent – State and counsel representing the State has put in appearance.

I have heard learned counsel for the parties besides going through the record.

The allegations against the petitioner are very grave and serious of forcing an innocent minor girl to have physical and sexual relations with her husband and one Kapoor Chand besides strangers. Such type of woman, if released on bail in all likelihood would indulge in

similar acts posing danger to innocent young girls. The trial is almost at the fag end. The culpability of the accused shall be determined during the trial. The apprehension expressed by the State counsel that if petitioner is granted bail, there is every likelihood to her absconding and even tampering with the prosecution evidence cannot be brushed aside lightly.

Therefore, finding no merit in the petition, the same stands dismissed.

3.10.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No