

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

CRM-M No.23426 of 2018

Date of decision: 20th February, 2019

Rajbala

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Pawan K. Hooda, Advocate for the petitioner.

Mr. Baljinder S. Virk, Dy. Advocate General, Haryana
for the respondent/State.

FATEH DEEP SINGH, J.

The petitioner Rajbala, a middle-aged married lady has filed this first regular bail application under Section 439 Cr.P.C. in case bearing FIR No.67 dated 13.03.2018 under Sections 376, 120-B, 342, 506 IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 pertaining to Police Station Sadar Gohana, District Sonipat. The facts brought to the notice of this Court are that on 13.03.2018 complainant Subhash Mishra, father of a minor girl aged around 16 years, moved a written complaint that he had contacted one Manjit Lathar to enable his minor daughter to qualify in 10th class examination and for which he had paid Rs.10,000/- to Manjit Lathar. It is further alleged that on the asking of the accused Manjit Lathar, the complainant and his daughter, the victim, on 08.03.2018 reached village

Bichhipari where the accused assured them that the girl need not appear in the examination and subsequently called them on 13.03.2018 and left the victim at the house of a lady and thereafter the complainant was sent to the school premises and it is alleged that the accused thereafter defiled the minor daughter in connivance of the two females, one of whom has been identified to be the present petitioner, leading to arrest of the petitioner on 15.03.2018.

Learned counsel for the petitioner Mr. Pawan Kumar Hooda contends that the petitioner is a grown-up mature lady and no specific role is attributed to her in commission of the offence and she is behind bars for almost one year and that neither the victim nor the complainant has supported the prosecution at the trial.

On behalf of the State, Mr. Baljinder Singh Virk, Dy. Advocate General, Haryana on instructions from ASI (Ms.) Kavita, Police Station Sadar Gohana, though does not dispute the facts brought to the notice of this Court by the petitioner side, but has opposed grant of bail to the petitioner on the grounds of heinousness of the offence and seriousness of allegations alleging that a minor girl has been defiled and therefore the petitioner was not entitled to any relief.

Going through the submissions of the two sides, the allegations contained in the FIR made by the complainant neither identify the ladies much less the petitioner nor any test identification parade has been got conducted as per the own admission of the learned State

counsel. There is no allegation made against the petitioner in commission of the offence. No doubt, the victim is shown to be a minor girl and this Court is saddened over the poor manner of the investigations where no semblance of evidence has come about to link the petitioner with commission of the offence. Even question of identity of the ladies has been left loose. It is own stand of the prosecution that both, the complainant and the victim, as per the copies placed on the record, have not supported the prosecution story. The petitioner is behind bars for almost one year. Culpability, if any, shall be determined at the trial which is not likely to conclude in the near future. Thus, this Court is of the opinion that no useful purpose will be served by keeping the petitioner in custody in the present case and it is a fit case for grant of bail to her. Accordingly, the petitioner is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Sonipat. However, it is made clear that anything observed herein shall not be construed as an expression on the merits of the case.

The petition stands disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

February 20, 2019

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No