

CRM-M-53467-2018 (O&M)

Date of decision:05.02.2019

Jaspal Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Ms. Rajvinder Kaur, Advocate, for the petitioner.
Mr. K.S.Aulakh, DAG, Punjab
Mr. Rishu Garg, Advocate for the complainant.

RAJBIR SEHRAWAT, J. (ORAL)

Prayer in this petition filed under Section 439 of Cr.P.C. is for grant of bail pending trial in case FIR No.115 dated 20.09.2018 under Sections 302, 147, 149 of IPC (Section 302 of IPC deleted later on and Section 304 IPC was inserted), registered at Police Station Tapa, District Barnala.

Learned counsel for the petitioner contends that although initially the case was registered under Section 302 of IPC, however, subsequently, the case has been converted into the offence under Section 304 (4) IPC. It is contended by the counsel for the petitioner that the version, as given by the complainant in the FIR, has been found to be not completely correct even by the Investigating Agency. The petitioner has been involved in the case only as an attempt to involve the entire family in the crime. The motive for involving the name of the petitioner in the present case is that just one day prior to the present FIR, the present petitioner had got lodged an FIR against the deceased under Section 354 A of IPC and Section 12 of Protection of Children from Sexual Offences Act; for sexually exploiting the 08 years old minor daughter of the petitioner. It is further contended that otherwise also, once the male members of the

family were giving beating to the deceased by tying him to the electricity pole, then there would not have been any reason or occasion for the petitioner also to participate in the beating. The petitioner is only a house wife and she was not even present at the spot; when the alleged incident is stated to have happened. In the end, the learned counsel for the petitioner has submitted that the petitioner is in custody since 20.09.2018 and the challan has already been filed. The petitioner is not required for any investigation purposes.

On the other hand, learned counsel for the State, being instructed by ASI Sarabjit Singh and assisted by learned counsel for the complainant; submits that the name of the petitioner has been mentioned by the independent witnesses; stating that the petitioner was also giving beating to the deceased. However, it is not disputed that one day prior to the alleged incident, leading to the present FIR, the petitioner had also got lodged an FIR against the deceased. It is also not disputed that the challan has already been filed in the case and the trial is yet to start.

Keeping in view the above said facts and also the fact that the petitioner is a house wife and she had lodged an FIR against the deceased just one day prior to the present incident, but without expressing any further opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial subject to her furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

(RAJBIR SEHRAWAT)
JUDGE

05.02.2019

Hemlata

Whether speaking/reasoned
Whether reportable

Yes / No
Yes / No