

In virtual Court

CRM-M-23236-2020

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-23236-2020 (O&M)

Date of decision: 25.08.2020

Kanchan Devi

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. B.K. Mehta, Advocate and
Mr. K.S. Mehta, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.255 dated 03.12.2019 under Sections 376, 506, 120-B IPC and Sections 3, 4, 18 of POCSO Act (Section 370-A IPC and Section 17 of POCSO Act were added subsequently), registered at Police Station City Jagraon.

Learned counsel for the petitioner submits that the petitioner is step mother of the victim and she is an old patient of paraparesis with 50% disability and is unable to walk. Learned counsel relies upon the disability certificate of the petitioner (Annexures P-3 and P-4) issued by Dayanand Medical College and Hospital, Ludhiana and Civil Hospital, Ludhiana to submit that the petitioner is an old case of paraparesis with 50% disability for the last 05 years. Learned counsel further relies upon an application given by the prosecution for

taking her for judicial remand before the Judicial Magistrate, wherein SHO, Police Station City Jagraon on 22.01.2020 admitted that the petitioner is a patient of paralysis and cannot walk. It is further submitted that in the entire FIR, this fact is not stated by the victim, who is step daughter of the petitioner and rather in the FIR, it is stated that she was taken in a Tempo to a hotel, there she met a person, who forcibly made physical relation with her. It is further stated that one month thereafter, there was an altercation between the petitioner and her husband and again the petitioner took the victim to house of her mother namely Jyoti, from where she was taken to house of her friend Sonia and again a person forcibly committed rape on her. It is further stated in the FIR that mother of the petitioner took her to her house in Gurmail Nagar and after some time, the petitioner and victim returned back to house of her father. In the subsequent part of the FIR, some incidents are reported.

Learned counsel for the petitioner has argued that in fact, on account of a dispute between biological father and step mother of the victim, she had gone to her biological mother and has levelled allegations against the petitioner-step mother including entire family. She even implicated her father and brother's wife in the present FIR. It is further submitted that one of the co-accused Sonia Bhatia has already been granted the concession of regular bail vide order dated 16.07.2020 passed in CRM-M-16954-2020.

A perusal of the order shows that co-accused Sonia Bhatia was granted the concession of regular bail, as no details of the incident were given and the victim did not disclose the date, time and year of the incident in the FIR.

In virtual Court

CRM-M-23236-2020

-3-

It is next submitted that there are 09 prosecution witnesses and none has been examined in view of COVID-19 situation and the petitioner, who is physically handicapped person, is not involved in any other case.

Learned State counsel has filed the custody certificate dated 24.08.2020 in the Court today and as per this custody certificate, the petitioner is in custody for the last 07 months and is not involved in any other case.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the fact that the petitioner is a lady, who is having 50% permanent disability of her lower part of the body due to paralysis and in the FIR, the complainant has nowhere stated that she is handicapped person and rather stated that the petitioner had taken her to various places in Tempo (Auto-rickshaw) and also in view of the fact that previously, the victim was residing with the petitioner i.e. her step mother and after she returned back to biological mother, she has levelled allegations against the entire family and also in view of COVID-19 situation in the country, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing her bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

25.08.2020
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No