

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-52584 of 2019

Date of Decision: 07.01.2020

Devki

...Petitioner (s)

Versus

State of Punjab

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Rapton, Advocate
for the petitioner.

Mr. Hittan Nehra, Addl.A.G., Punjab.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner in case FIR No.69 dated 17.07.2019 under Sections 363, 366 (withdrawn on 21.07.2019) and Sections 376 and 366-A IPC (added on 21.07.2019) and Sections 3, 4, 5 and 6 POCSO Act (Added on 21.07.2019) registered at Police Station City Rampura, District Bathinda.

The aforesaid FIR was registered at the behest of the complainant Om Parkash, who is father of the victim. As per the FIR, on 10.07.2019, the daughter of the complainant, who was 16 years of age, left her house without informing the family members. When search was made,

the complainant came to know that his daughter has been taken away by co-accused Gobinda and his wife Devki (petitioner) by alluring her.

Counsel for the petitioner has argued that the alleged incident had taken place on 10.07.2019 whereas the FIR in question was registered on 17.07.2019. Moreover, the victim in the case has been offered medical examination but she has refused her medical examination. The petitioner is wife of co-accused Gobinda against whom there are allegations that he has allured the victim and the petitioner has helped her husband. However, no wife would help her husband to allure a girl. The petitioner is in custody since 19.07.2019.

Learned State counsel, on instructions from ASI Jagtar Singh, does not dispute the custody of the petitioner. However, he submits that victim is yet to be examined in the case and the case is fixed before the trial Court today itself i.e. for 07.01.2020. The victim in her statement under Section 161 CrPC has stated that on 10.07.2019 and 11.07.2019, the accused Gobinda took her to his village, where he forcibly committed rape upon her. His wife was also present there. It is on the basis of the statement of the victim under Section 161 CrPC, she was recovered from the house of the petitioner. In this manner, in view of Section 27 of the Indian Evidence Act, when recovery of the victim was effected from the house of the petitioner, she is not entitled to be admitted on bail.

I have heard learned counsel for the parties.

The petitioner is wife of co-accused Gobinda, against whom there are allegations of alluring the daughter of the complainant. Generally, no wife would facilitate such allurement. Considering the fact that the

petitioner is in custody since 19.07.2019 and there is no medical evidence to support the case of the prosecution coupled with the fact that trial in the case is not likely to be concluded in near future, this Court deems it appropriate to release the petitioner on regular bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of her bail bonds/surety bonds to the satisfaction of trial Court.

However, it is made clear that the observation made hereinabove shall not be construed as an expression on the merits of the case.

January 07, 2020
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No