

CRM-M-20424 of 2021

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

**CRM-M-20424 of 2021
Date of decision:29.06.2021**

Shakuntla

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Manoj K. Sharma, Advocate
for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

SUVIR SEHGAL, J. (Oral)

The Court has been convened through video conferencing due to Covid-19 pandemic.

This is the second petition for grant of regular bail to the petitioner in case FIR No.657 dated 03.10.2020 registered under Sections 376(2)(n), 120-B, 342, 506 of Indian Penal Code, 1860 and Section 4 of The Protection of Children from Sexual Offences (POCSO) Act, 2012 (for short “POSCO Act”) at Police Station Shivaji Colony, District Rohtak. However, later on, Section 376(2)(n) and Section 4 of POCSO Act, have been deleted and Section 376(D)(a) of IPC and Section 6 of POCSO Act, have been added.

As per the version of the prosecution, FIR has been registered on the statement of mother of the prosecutrix, wherein, she has alleged that Sahil son of Shakuntla (present petitioner) had raped her daughter twice in the month of September, 2020. It has been alleged that Shakuntla had called the prosecutrix, who belongs to the Backward Class, to cook at her home on 24.09.2020 when the first unsavory incident is alleged to have taken place. On 26.09.2020, Sahil called the prosecutrix to his home on the pretext that his mother had called her. The allegation is that on 26.09.2020, Shakuntla forced the prosecutrix to have sexual relations with her son.

Counsel for the petitioner has referred to the statement of the prosecutrix and her parents, who had appeared as PW1 to PW3, respectively to submit that all the three material prosecution witnesses have resiled from the allegations levelled by them against the petitioner and her son. He submits that the statements of these prosecution witnesses have been recorded on 06.04.2021, i.e., after dismissal of the first petition (CRM-M-44382 of 2020) preferred by the present petitioner. On the basis of this change in circumstances, counsel for the petitioner has contended that the petitioner, who is 56 years old lady and in custody since 03.10.2020, deserves to be enlarged on bail.

Per contra, State counsel has made a reference to the Medico Legal Examination Report of victim (Annexure P-6) and by referring to page 42 of the paper book, he has submitted that doctor has opined that possibility of sexual intercourse cannot be ruled out. He submits that doctor as well as investigating officer are yet to be examined. Upon instructions

from Inspector Neelam, State counsel submits that 11 out of total 16 prosecution witnesses, have been examined and the trial is fixed for 20.07.2021 for further proceedings.

I have considered the rival submissions of the parties.

Considering the arguments advanced by the counsel for the petitioner and the age of the petitioner, who is a lady, this Court deems it appropriate to order her release on bail during the pendency of the trial.

Keeping in view the facts and circumstances, nature of allegations, the gravity of offence and the fact that trial is likely to take time due to spread of contagion, no purpose would be served by keeping the petitioner behind the bars any further.

Without commenting anything on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail on her furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

June 29, 2021
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No