

**(206) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-29056-2021 (O&M)

Date of Decision:20.08.2021

Sarabjit

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present : Mr. Ritesh Pandey, Advocate
for the petitioner.

Mr. Saurav Khurana, D.A.G. Punjab.

VIKAS BAHL, J. (Oral)

Case is taken up for hearing through video conferencing.

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.125 dated 03.12.2019, registered under Sections 302, 364, 365, 377, 201 read with Section 34 IPC and Sections 3 and 4 of the Protection of Children From Sexual Offences Act (POCSO), Police Station Dera Baba Nanak, District Batala.

Learned counsel for the petitioner has submitted that in the present case initially an FIR was registered under Section 365 IPC on the statement of Nitu mother of the deceased Raja Masih @ Arsh who was aged about 8 years. It is further submitted that it was on the basis of the alleged extra judicial confession which is stated to have been made by the petitioner and Vijay Kumar co-accused that the petitioner as well as the minor boy namely Rakesh Masih have been made accused. It is submitted that the primary link in the whole case is the alleged extra judicial confession of Chanchal Singh and when the said Chanchal Singh appeared in the witness box as PW-3 has turned hostile and did not support the case of the

prosecution.

Learned counsel for the petitioner has also referred to the evidence of PW-1 namely Nitu who is the mother of the deceased who has also in the cross examination stated that the petitioner-Sarabjit has not committed any offence. It has been pointed out that the Board of Principal Magistrate, Juvenile Justice Board at Gurdaspur has also acquitted Rakesh Masih who was the person who had allegedly sodomized the deceased Raja Masih @ Arsh. A reference has been made to the said judgment in which it has been recorded that most of the material witnesses have not supported the case of the prosecution. It has further been submitted that even the co-accused namely Vijay Kumar has been released on bail vide judgment dated 7.4.2021 in CRM-M-14573-2021 by a co-ordinate Bench of this Court primarily on the ground that Said Vijay Kumar had been in custody since 13.12.2019 and the petitioner has undergone incarceration for a period of more than 4 months than the said Vijay Kumar.

Learned State counsel, on the other hand, has submitted that the case is at the fag end; there is also a disclosure statement made by the petitioner and there was also a recovery from the petitioner which was used for strangulating the dead body.

Learned counsel for the petitioner has submitted that petitioner is a lady and she is not involved in any other case.

Keeping in view the above facts and circumstances of the case as also the fact that the petitioner has been in custody since 13.12.2019; the star witness PW-3 namely Chanchal Singh has not supported the case of the prosecution; 3rd accused namely Rakesh Masih has already been acquitted by the Juvenile Justice Board; co-accused has been granted regular bail by a

co-ordinate Bench of this Court and the petitioner is a lady and is not involved in any other case, this Court deems it appropriate to allow the present petition.

Accordingly, present petition is allowed. The petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

However, nothing stated here-in-above shall be treated as an expression on the merits of the case.

(VIKAS BAHL)
JUDGE

20.08.2021
rajeev

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No