

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

**CRM-M-30987-2020
Date of decision: 18.03.2021**

Suman

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Monty Goyal, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

(through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 255 dated 03.12.2019, registered under Sections 376, 506, 370, 370-A, 120-B of the IPC; Section 3, 4, 17 and 18 of the POCSO Act, 2012 at Police Station City Jagraon, District Ludhiana.

Learned counsel for the petitioner relies upon order dated 16.07.2020 passed in CRM-M-16954-2020, vide which co-accused Sonia Bhatia has been granted the concession of regular bail by this Court.

Learned counsel for the petitioner also relies upon order dated 25.08.2020 passed in CRM-M-23236-2020, vide which another co-accused Kanchan Devi has been granted the concession regular bail by this Court. The operative part of the order reads as under:

“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 coaccused 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.

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/Illaqa Magistrate/Duty Magistrate, concerned.”

For the sake of brevity, the facts are not reproduced as the same is already noticed in the aforesaid order.

Learned counsel for the petitioner further submits that the allegations against the petitioner is that she has facilitated in the commission of crime.

It is further submitted that petitioner is a lady, aged about 29 years and she has no such history of involvement in any other criminal case.

Learned counsel further submits that petitioner is in judicial custody since 07.12.2019 and conclusion of trial is likely to take a long time as no prosecution witness has been examined so far.

Learned State counsel, on the basis of the custody certificate filed today in Court, has not disputed the factual position. As per custody certificate, the petitioner is not involved in any other case.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that petitioner is in judicial custody since 07.12.2019; co-accused have already been granted concession of regular bail by this Court as noticed above; she is not involved in any other case and also in view of the fact that conclusion of trial is likely to take some time, the instant petition is allowed. The petitioner is ordered to be released on regular bail on her furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

18.03.2021

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No