

**215 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH
(through video conferencing)**

CRM-M-53000-2021
Date of decision:22.12.2021

Rupa Devi

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Yogesh Goel, Advocate
for the petitioner.

Mr. Karan Sharma, DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

Instant petition has been filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.305 dated 29.10.2021 under Sections 376 and 120-B and 506 IPC registered at Police Station Sadar Mahendergarh, District Mahendergarh (Annexure P-1).

At the outset, learned counsel for the petitioner has invited the attention of this Court to the allegations levelled in the FIR in question as well as to the statement of the prosecutrix recorded under Section 164 Cr.PC. He submits that a perusal of the allegations levelled in the FIR in question does not even obliquely reflect that the petitioner, who is sister of the main accused – Pratap Singh, had in any way instigated her brother to commit rape upon the prosecutrix. He further submits that even in her statement recorded under Section 164 Cr.PC, the only allegation that has been levelled against the petitioner is that she had threatened the prosecutrix not to reveal about the factum of rape to anyone. He still further submits that in fact the petitioner and the prosecutrix are closely related, being first

cousins. He rather submits that sequence of events and the circumstances in which the prosecutrix left her matrimonial home alongwith the main accused i.e. brother of the petitioner on 12.10.2021 clearly hints towards the prosecutrix and the brother of the petitioner being in a consensual relationship. A prayer has, therefore, been made to extend the concession of bail to the petitioner as she has now been in custody since 02.11.2021 and trial would not conclude in the near future.

Per contra learned State counsel on instructions from ASI Mukesh Kumari submits that the petitioner is the real sister of the main accused. He submits that the prosecutrix was taken by the accused Pratap Singh to Jaipur on the pretext of meeting her ailing brother. He further submits that the alleged rape was committed by co-accused Pratap Singh in the house of the petitioner at Jaipur and when the prosecutrix brought it to the notice of the petitioner, instead of coming to her rescue, the petitioner asked her to keep quiet and extended threats to the prosecutrix. He, on further instructions submits that challan stands presented and charges are likely to be framed on 31.01.2022.

On a query put to learned counsel for the State, he has conceded that there are no allegations levelled in the FIR in question or even in the statement recorded under Section 164 Cr.Pc that the petitioner had at any point of time instigated her brother to commit rape upon the prosecutrix.

Heard learned counsel and perused the material available on record.

In the facts and circumstances of the case as enumerated hereinabove as well as in the wake of submissions made by the learned counsel for the parties, the present petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

22.12.2021
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No