

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

218

(Through Video Conferencing)

CRM-M-4688-2022

Date of decision: 10.02.2022

Resham

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Mukesh Yadav, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana
for the respondent-State.

MANJARI NEHRU KAUL, J. (ORAL)

This is the first petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.250 dated 28.10.2021 lodged under Sections 363, 366A, 342, 216, 506 and 34 IPC, Sections 6 and 17 of the Protection of Children from Sexual Offences Act, 2012 and Section 3 of the SC/ST Act registered at Police Station Sector-6 Dharuhera, District Rewari.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the case in hand only because she happens to be the mother of co-accused Maharaj, who allegedly raped the victim by bringing her into his house after she eloped with him on 26.10.2021. Learned counsel submits that the victim who remained missing for almost 7-8 days had come up with self-contradictory statements under Section 164 Cr.P.C. While inviting the

attention of this Court to her statement made under Section 164 Cr.P.C. annexed as Annexure P-1 soon after her recovery, learned counsel submits that a perusal of the same reveals that no allegation had been levelled against the petitioner and the victim had categorically stated that she along with co-accused had clandestinely left her house and thereafter it was co-accused Sumit, who had established physical relations with her. Learned counsel submits that six days thereafter while recording her second statement under Section 164 Cr.P.C., the victim for the first time levelled allegations against the son of the petitioner wherein she named the son of the petitioner for the first time, however, in that statement also she did not level any allegation of any wrong doing against the petitioner's son much less against the petitioner. Learned counsel submits that since investigation is complete, charges have been framed and the petitioner, who is a lady has been in custody since 06.11.2021, her further incarceration would not serve any useful purpose.

Per contra, learned State on instructions from the investigating officer has not been able to controvert the submissions made by counsel opposite. He has conceded that no specific role has been levelled against the petitioner much less of being a party to the alleged wrong doings of co-accused.

I have heard learned counsel for the parties and perused the material placed on record.

The petitioner has been in custody since 06.11.2021 and there is no likelihood of the trial concluding in the near future as the prosecution evidence has not commenced and 31 prosecution witnesses

have been cited. In the circumstances, the instant 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.

10.02.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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