

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

Sr. No.210

CRM-M-9001-2022

Date of decision: 12.05.2022

Sundari alias Monu

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Shivansh Malik, Advocate, for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

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DEEPAK SIBAL, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.456 dated 05.12.2020 registered under Sections 4 and 12 of the Prevention of Children from Sexual Offences Act, 2012 and Sections 354-A, 506, 376(3), 120-B IPC (offence under Section 6 of the Prevention of Children from Sexual Offences Act, 2012 added later on) at Police Station Kalanaur, District Rohtak.

Briefly stated, the case of the prosecution is that the petitioner, who is the prosecutrix's Aunt, took the prosecutrix to her house on the pretext of some work and thereafter, handed her over to main accused Arun, the petitioner's brother, who then raped the prosecutrix.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in this case; the petitioner has been in custody since 20.12.2020; the petitioner has no other criminal case pending against her; the only allegations against the petitioner are of abetment with the main allegations of rape being against co-accused Arun Kumar – the petitioner's brother; there is unexplained delay of nearly 14 days in lodging of the FIR which is fatal to the prosecution's case; all the material witnesses of the prosecution stand examined and therefore, the petitioner is not in a position to influence them; as per photographs (Annexure P-10), the prosecutrix and the main accused – Arun Kumar were in a consensual relationship and therefore, there was no reason for the petitioner to entice the prosecutrix from the prosecutrix's house to the petitioner's house; the prosecutrix

being in a relationship with the main accused Arun Kumar would need no enticement to go to him; while appearing before the Trial Court, as a witness for the prosecution, the prosecutrix has admitted the afore-referred photographs (Annexure P-10) giving plausibility to the petitioner's defence; the reason to falsely implicate the petitioner is because after the relationship of the prosecutrix and the petitioner's brother Arun Kumar went viral it is she who did not approve of their marriage and that since in the petitioner's trial 13 prosecution witnesses still remain to be examined, the same will take a long time to conclude.

Learned State counsel opposes the grant of bail to the petitioner on the ground that she abetted rape on a minor.

The effect of delay in lodging of the FIR and the defence taken by the petitioner for her false implication in the case would be considered by the Trial Court at an appropriate stage. However, the allegations against the petitioner are of abetment with the rape on the prosecutrix allegedly by co-accused Arun Kumar; the petitioner is in custody since 20.12.2020; the petitioner has no other criminal case pending against her; all the material witnesses of the prosecution stand examined and therefore, the petitioner is not in a position to influence them and since in the petitioner's trial 13 prosecution witnesses still remain to be examined, the same is likely to take a long time to conclude.

Keeping in view the totality of the above facts, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Rohtak, the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

May 12, 2022
Jyoti 1

(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No