

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

CRM-M-22577-2021

Date of Decision: 18.07.2022

SHOBHA @ LUXMI

... PETITIONER

VS.

STATE OF HARYANA

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Rakesh Kumar Lathwal, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

VIVEK PURI, J.(ORAL)

Custody certificate has been placed on record.

Petitioner is seeking regular bail in case bearing FIR No.0269 dated 01.09.2020 under Section 365 IPC (offences under Sections 452/328/370/506 IPC and Section 4 of POCSO Act have been added during presentation of challan) registered at Police Station Industrial Sector-29, Panipat, District Panipat.

Briefly, the aforesaid FIR was registered on the statement of the mother of the victim alleging that the victim, aged about 15 years, has been kidnapped by someone.

Learned counsel for the petitioner contends that the victim, in her statement recorded under Section 164 Cr.P.C., has levelled allegations to the effect that the petitioner alongwith two others had forcibly taken her to U.P. and Usman had committed wrong act with her. Furthermore, she was administered something in the tea which rendered her unconscious. The petitioner had also sold the victim to Faizal. It has been argued that the statement of the victim during the course of trial has been recorded in which different version is coming forth. The allegations are to the effect that the petitioner had taken the victim in jungle, where some unknown persons committed rape upon her. Even, the allegation with regard to selling of the victim to Faizal has not been mentioned in the said statement. The allegations as put forth by the victim are to the effect

that the petitioner was contemplating to sell her to someone, but the deal had not matured. Even, she had not identified the co-accused, namely, Pushpinder and Mohammad Ashraf @ Faizal. The petitioner is in custody for a period of 01 year, 06 months and 15 days.

The bail application has been resisted on the score that there are categoric allegations levelled by the victim against the petitioner in the statement under Section 164 Cr.P.C. as well as during the course of deposition of the victim in the Court.

Be that as it may, the statement of the victim under Section 164 Cr.P.C. and recorded during the course of trial are stated to be at variance. She had not identified two of the co-accused during her deposition in the trial Court. The allegations with regard to selling of the victim indicate that even such transaction could not materialize. The name of the person who allegedly committed rape upon the victim has not been specified. The petitioner is in custody for a period of 01 year, 06 months and 15 days and is not involved in any other case. Furthermore, it has been also stated that out of 24, only 03 witnesses have been examined so far and the statement of the victim has already been recorded. As such, it cannot be said the petitioner can influence or try to win over the victim.

In such circumstances, sufficient grounds are made out to extend the concession of bail to the petitioner. Accordingly, without making any observation on the merits of the case, the present petition is allowed and petitioner is ordered to be released on bail, subject to her furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

18.07.2022
smriti

(VIVEK PURI)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No