

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

CRM-M-21937-2022
Date of Decision:-**05.09.2022**

MEENA

... Petitioner

Versus

STATE OF UT CHANDIGARH

... Respondent

-.-

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

-.-

Present:- Mr. Udit Mendiratta, Advocate
for the petitioner.

Mr. J.S. Toor, APP, U.T. Chandigarh.

-.-

KARAMJIT SINGH, J. (Oral)

The petitioner has approached this Court seeking grant of regular bail in a case having FIR No.150 dated 4.12.2021 registered under Sections 315/318/120-B IPC at Police Station Mauli Jagran, Chandigarh.

The counsel for the petitioner submits that the petitioner is mother of female child aged about 14-15 years, who was exploited and raped by co-accused Bharat. The counsel for the petitioner further submits that after the aforesaid incident, when the petitioner came to know that her minor daughter has become pregnant, she wanted to save the honour of her family.

The counsel for the petitioner further submitted that there are allegations that

she took help of co-accused Renu Devi (midwife) to abort the unwanted pregnancy of her minor daughter. The counsel for the petitioner further submits that there are also allegations that fetus of the aborted child was later on recovered and sent for examination and as per DNA report it matched with aforesaid minor girl and co-accused Bharat. The counsel for the petitioner further submits that the petitioner is in custody for the last more than 5 months and is having no criminal history, while co-accused Renu Devi has been granted regular bail by the Court of Additional Sessions Judge vide order dated 3.8.2022. The counsel for the petitioner further submits that there was no criminal intent on the part of the petitioner to cause harm to anyone and whatever she did was in good faith for the welfare of her minor daughter and to save the honour of her family. The counsel for the petitioner made prayer that the petitioner be released on bail as it will take considerable time for the trial to conclude.

Today the U.T. counsel produced custody certificate along final opinion of cause of death and forensic DNA test reports, which are taken on record. The APP appearing on behalf of the U.T. Chandigarh submits that as per the aforesaid DNA test reports, it stands established that the fetus in question matched with the minor daughter of the petitioner and co-accused Bharat. The APP appearing on behalf of U.T. has not disputed the fact that the minor daughter of the petitioner was raped by Bharat as a result of which she became pregnant and the said pregnancy was terminated by co-accused Renu Devi, who has already been granted regular bail.

I have considered the submissions made by counsel for the parties.

Even if the factual matrix as has been stated above is admitted to be correct, it is a moot point as to whether there was any criminal intention or *mens rea* on the part of the petitioner to cause harm to her minor daughter who is stated to be raped by Bharat and became pregnant. The petitioner is in custody for the last more than 5 months and it will take time for the trial to conclude. In the given circumstances, no purpose is going to be served by prolonging any further incarceration of the petitioner.

Thus without commenting on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail subject to her furnishing bail and surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

05.09.2022
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No