

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

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**CRM No. 15409 of 2022 in/and
CRM-M No. 28258 of 2021
Date of decision : 29.4.2022**

Kulwant Kaur

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present : Ms. Bandana Kumari Dogra, Advocate, for the petitioner

Ms. Sakshi Bakshi, AAG, Punjab and
Mr. Rakeshinder Singh Sodhi, AAG, Punjab

RAJESH BHARDWAJ, J. (Oral)

CRM No. 15409 of 2022:

This is an application for placing on record the testimonies/statements of prosecutrix and complainant-uncle (chacha) as Annexure A-1 and A-2; and for exemption from filing the photocopies/typed copies of the same.

For the reasons mentioned in the application, the same is allowed. The testimonies/statements of prosecutrix and complainant-uncle (chacha) as Annexure A-1 and A-2 are taken on record and exemption is granted from filing the photocopies/typed copies of the same.

Main Case:

Instant petition has been filed under Section 439 Cr.P.C. praying for grant of regular bail to the petitioner in case FIR No.298, dated 7.9.2020, under Sections 376, 120B IPC and Section 6 of the POCSO Act, 2012, registered at Police Station Goindwal Sahib, District Tarn Taran.

As per the factual matrix of the case, Jagdev Singh son of Jarnail Singh has lodged the FIR. The sum and substance of the allegations in the FIR

that they are three brothers and elder brother Sukhwinder Singh died. His wife Kulwant Kaur along with her daughter victim (name concealed) started residing in the house of her sister-in-law Gurmeet Kaur. On 6.9.2020, when she was present in the house, his niece/victim, who is 15 years and 6 months of age, came to him and told that her mother Kulwant Kaur had illicit relations with Manjit Singh son of Sukhwinder Singh. It was also told that Manjit Singh had also illicit relations with the victim. She told this fact to her mother but she did not say anything regarding this. It was told by her that Manjit Singh forcefully made illicit relations with her. Whenever, she complains of the same to her mother, no action is taken. The complainant along with his wife Sarabjit Kaur and his niece went to Police Station and lodged the FIR for taking action against the petitioner.

On completion of investigation, the statement of victim under Section 164 Cr.P.C. was recorded and she was examined medically. Accused Kulwant Kaur i.e. the mother of the victim was arrested on 8.9.2020. Manjit Singh cousin of the victim was also arrested. The petitioner approached the Court of Additional Sessions Judge, Tarn Taran, praying for the grant of bail. After hearing the parties, the Additional Sessions Judge, Tarn Taran declined the bail vide order dated 2.6.2021. Aggrieved by the same, the petitioner approached this Court by way of present petition.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in this case. She submits that the petitioner is none other than the mother of the victim. She submits that the FIR was lodged to usurp the share of the petitioner in the property by the relatives. She submits that the petitioner being mother of

victim can never be said to have committed the offence as alleged. The petitioner has never been involved in any criminal case at any point of time. However, after the death of her husband, she has been victimized by the other family members. To buttress her arguments, she submits that after the presentation of the challan and framing of the charges, learned trial Court has commenced with the recording of evidence. Complainant Jagdev Singh has been examined as PW-1 and the victim has been examined as PW-2. Their statements have been placed on record. It is submitted by counsel for the petitioner that both these material witnesses have not supported the case of the prosecution and hence, both were declared hostile on the request of learned Public Prosecutor. She submits that the mother of the victim being behind bars, the plight of the family is grave and serious. In view of the facts and circumstances of the case, as the material witnesses have themselves not supported the case of the prosecution, the petitioner deserves to be enlarged on bail.

Learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the victim is 16 years of age and there are specific allegations against the petitioner. He submits that while conducting the medical, FSL report also corroborated the version of the prosecution version. However, he acknowledges that the victim and the complainant have not supported the case of the prosecution. He submits that in all there are 16 prosecution witnesses, out of which 3 material witnesses i.e. the victim, the complainant and the wife of the complainant have already been examined. He also submits that there are no criminal antecedents of the petitioner except this case.

Heard.

The petitioner is the mother of the victim. She is behind bars since 8.9.2020. The material witnesses have not supported the case of the prosecution. There is nothing on record showing any criminal antecedents of the petitioner. The veracity of these allegations would be evaluated by the trial Court only after the conclusion of the trial. However, this Court would refrain itself from commenting on the merits of the case. In the overall facts and circumstances, this Court finds that the material witnesses have not supported the case of the prosecution and granting bail to the petitioner, at this stage, cannot even result in tampering in the prosecution witnesses. In the overall facts and circumstances, this Court finds that the counsel for the petitioner succeeds in making out the case for grant of regular bail to the petitioner. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

**(RAJESH BHARDWAJ)
JUDGE**

29.4.2022

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No