

**107+231 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**CRM-M-48582-2021(O&M)
Date of decision: 27.4.2022

Ritu

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJPresent: Mr. Balraj Gujjar, Advocate, for the petitioner.
Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

RAJESH BHARDWAJ, J. (Oral)**CRM-13370-2022**

Annexures P-2 to P-7 are taken on record.

Application stands allowed.

Main case

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.109 dated 16.5.2021, registered under Section 380, 457 IPC (Sections 376(3), 506, 384, 67-B, 120-B IPC and Sections 6 and 17 of Protection of Children from Sexual Offences Act, 2012 added later on, at Police Station City Safidon, District Jind.

As per the facts of the case, the FIR in question was registered by the complainant, namely, Nadeem son of Sahjad. It has been alleged in the FIR that in the intervening night of 15/16.5.2021, he was sleeping in the courtyard of his house alongwith his family members. When he woke up in the morning he found the locks of the box broken and the articles were scattered. It was suspected that some unknown person has stolen Rs.4,50,000/-, one gold ring

about 6 grams, two pairs of ear rings 2-2 grams, 2 pair of pajeb about 15 and 9 grams, two pair of silver necklace about 60-60 grams and one oppo company A-15 phone. FIR was lodged to take action against the culprits. Thereafter on 18.5.2021, statements of the complainant and that his family members were recorded. Name of the petitioner surfaced in the supplementary statement recorded. Thereafter, statement of the victim was recorded under Section 164 Cr.P.C., wherein, the allegations pertaining to the offence under the POCSO Act, 2012 were levelled against the petitioner and her husband. The petitioner was arrested on 14.7.2021. The petitioner approached the learned Additional Sessions Judge, Fast Track, Special Court, POCSO, Jind praying for the grant of bail, who after hearing the parties, declined the same vide its order dated 22.9.2021. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

It has been contended by learned counsel for the petitioner that the petitioner has been falsely roped in this case. He submits that the FIR in question was lodged against unknown person, however, two days thereafter statements of the family members of the complainant were recorded. During investigation, name of the petitioner was mentioned. He submits that no allegations whatsoever pertaining to the offence under the POCSO Act were levelled by any of the witnesses. He submits that surprisingly two months after statement of the victim was recorded under Section 164 Cr.P.C., wherein bald allegation pertaining to incident two months prior was levelled by the victim against the petitioner and her husband, wherein the petitioner was alleged to have supported her husband in committing offence under the POCSO Act against the victim. Learned counsel for the petitioner submits that from the facts and circumstances of the case, it is apparent that at every stage a coloured

version is being given by the prosecution and heinous offences are being added only to make the case serious against the petitioner. He has submitted that even from the reading of the allegations, no offence is made out against the petitioner. The petitioner is behind bars since on 14.7.2021 and the material witnesses also stand examined. The petitioner has no criminal antecedents and thus, she deserves to be enlarged on bail.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner and submitted that though the petitioner was not named in the FIR, however, during investigation her name has surfaced in the supplementary statement and also in the statement of the prosecutrix recorded under Section 164 Cr.P.C. He has submitted that out of total 26 prosecution witnesses, 7 witnesses including the material witnesses have been examined.

Heard.

From the perusal of the record and the arguments raised by learned counsel for the parties, it is apparent that initially the FIR was lodged against unknown person, however, during the investigation, name of the petitioner came for the first time pertaining to the offence of theft on 18.5.2021. There was no whisper whatsoever regarding any sexual offence. However, at the time of recording the statement under Section 164 Cr.P.C., the allegations pertaining to sexual offence against the petitioner came for the first time. Medical of the prosecutrix was also conducted, however, the ocular version was not corroborated. There is nothing on record showing the petitioner involved ever in any of criminal offence. The material witnesses already stands examined by the trial Court. Though 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 of the case, I am of the opinion that learned counsel for the petitioner has been able to make out a 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.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

27.4.2022
sharmila

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