

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.203

CRM-M-41569-2022

Date of decision: 14.12.2022

Gulshan

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Rajesh Lamba, Advocate, for the petitioner.

Mr. Sharad Aggarwal, AAG, Haryana.

* * *

DEEPAK SIBAL, J. (Oral)

This is the second petition filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.503 dated 09.08.2021 registered under Sections 376-D, 328, 120-B, 365, 379 and 109 IPC at Police Station Suraj Kund, District Faridabad.

The petitioner is being prosecuted for having conspired with her co-accused who kidnapped and gang raped the prosecutrix.

Learned counsel for the petitioner contends that the petitioner is a 43 year old lady; the prosecutrix is a married lady and was having an affair with co-accused Mustaq, who is the petitioner's nephew but when their affair came to the knowledge of the prosecutrix's husband, the petitioner and her co-accused have been falsely implicated in this case; the petitioner has no other criminal antecedents; all material witnesses in the petitioner's trial including the prosecutrix stand examined; the prosecutrix's MLR shows no injury on her person showing falsity in her claim that she was gang raped for 20/25 days; there is no forensic evidence against the petitioner; the petitioner is in custody for the last 09 months and 18 days and that since in the petitioner's trial 10 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 the petitioner has conspired with her co-accused who gang raped the prosecutrix and that even till date both her co-accused are absconding.

The petitioner is in custody for the last 09 months and 18 days; the petitioner has no other criminal antecedents; all material witnesses in the petitioner's trial including the prosecutrix stand examined; the prosecutrix's MLR shows no injury on her person; there is no forensic evidence collected by the prosecutrix and that since in the petitioner's trial 10 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, Faridabad, 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.

December 14, 2022
Jyoti 1

(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No