

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.33944 of 2023
Date of decision: 30.11.2023

Pushpa Devi

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Harsh Chopra, Advocate,
for the petitioner.

Ms. Himani Arora, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J.

1. The present petition has been filed by the petitioner Pushpa Devi seeking grant of regular bail in case bearing FIR No.19 dated 27.02.2023 registered under Section 376 of IPC at Police Station Nangal, District Rupnagar.

2. Custody certificate dated 29.11.2023 filed by the learned State counsel, is taken on record.

3. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR had been registered on the basis of statement recorded by the complainant "R" (name withheld) on 27.02.2023 alleging therein that she was married with Pawan Kumar as on 17.01.2017. After one year of her marriage, her husband had gone abroad as he was working as a driver there. In the

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month of April 2020 when her husband was abroad, the petitioner who is her mother-in-law, got some religious ceremony performed from a tantrik namely, Shashi at their house for begetting a child from the complainant as she had not conceived till that. She alleged that the abovesaid tantrik Shashi made the mother-in-law and father-in-law of the complainant leave the room and while she was alone with him in the room, he started humming occult mantras and while doing so, he disrobed the complainant and applied honey with banana on her breast and private parts of her body and kissed those parts. Thereafter, he inserted that banana in her private parts thereby committing rape upon her and had captured all this in his mobile phone. She further alleged that the said tantrik had given bath to the complainant subsequently after removing her clothing in the presence of the petitioner also. The complainant could not disclose about the incident to anyone due to fear. Subsequently, her husband came back to India. She was assaulted by him on the instigation of the petitioner and was made to leave her matrimonial house. She prayed for taking penal action against the culprits. On this complaint, a case under Section 376 of IPC was registered. Investigation proceedings were initiated. The present petitioner was arrested on 27.02.2023. After completion of necessary investigation and usual formalities, challan was presented in the Court and now she is facing trial.

4. Learned counsel for the petitioner has argued that she has been falsely implicated in this case. The complainant had wrongly alleged that in April 2020, her husband was abroad whereas he was very much

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present on the India at that time and the entries made in his passport reflected so. He further submitted that the complainant herself has filed a petition for seeking dissolution of her marriage with the son of the petitioner and in the said petition, allegation qua making attempt to commit rape and not rape by the co-accused Shashi trantrik had been made. The subject offences were not at all made out against the petitioner. Her custodial interrogation is not required. The trial was likely to take time. No useful purpose would be served by detaining her in custody any more. Hence, it is urged by her that she deserves to be given concession of bail.

5. The petition has been resisted by the State in terms of status report dated 27.09.2023. Learned State counsel has argued that there are serious and specific allegations against the petitioner as she facilitated the commission of offence of rape upon the victim by the co-accused Shashi tantrik. The trial was going at a fast pace and it could be expedited even further. Hence, she argued that the petition does not deserve to be allowed.

6. The petitioner is alleged to have facilitated the commission of offence of rape upon the victim by the co-accused Shashi tantrik. She is in custody since 27.02.2023. There was delay of about three years in reporting the matter to the police on the part of the complainant-victim. The trial is likely to take time. Keeping in view the act that has been attributed to the petitioner in the commission of the subject offence, the fact that she is in custody since 27.02.2023 and further keeping in view

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her age and attendant facts and circumstances of the case, I am of the considered opinion that she deserves to be given concession of bail. Hence, the petition is allowed and the petitioner is ordered to be admitted to bail subject to her furnishing personal as well as surety bonds to the satisfaction of learned trial Court concerned.

30.11.2023	(MANISHA BATRA)
manju	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No