

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARHCRM-M 36003/2023
Date of decision: 28.07.2023.

Anjali

.....Petitioner

Vs.

State of Haryana and another

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Parminder Singh, Advocate for the petitioner.

Nidhi Gupta, J.

Prayer in this petition under Section 482 Cr.PC read with Section 439(2) Cr.PC is for setting aside the order dated 12.6.2023 (Annexure P-5) passed by Addl. Sessions Judge-cum-Exclusive Court for Fast Tracking of Heinous Crime Against Women, Karnal whereby respondent no.2 was granted bail under Section 439 Cr.PC in case FIR No.67 dated 13.3.2023 under Sections 323, 506, 354-A, 354-C, 498-A, 376, 34 IPC, PS Munak, Karnal.

Ld. counsel for the petitioner submits that the respondent no.2 is father-in-law of the petitioner, and the allegation against him is that he committed rape upon the petitioner. It is submitted that the respondent No.2 used to physically and mentally torture the petitioner and as such, the petitioner had lodged the FIR, and in her statement under Section 164 Cr.PC, the petitioner had made allegations of rape against respondent No. 2. It is further submitted that respondent no.2 along with other matrimonial relatives

threatened to kill the petitioner with the help of goons. It is further contended that regular bail has been granted to respondent no.2 vide impugned order without examination of the petitioner, and accordingly, for all the reasons stated hereinabove, the impugned order deserves to be set aside.

Heard ld. counsel for the petitioner.

Para 7 of the impugned order (Annexure P-5) reads as under:-

“7. After filing of this complaint u/ss 323, 354-A, 354-C, 498-A and 506 IPC the statement of complainant was got recorded before the court u/s 164 Cr.PC on 14.3.2023 and thereafter, section 376 IPC was added. She was got medically examined on 16.3.2023. The co- accused Shan Kaur @ Shanno Devi was joined in the investigation on 27.3.2023 while co-accused Rekha was joined as such on 3.4.2023. Their disclosure statements were recorded. Co-accused Gurcharan Singh was arrested on 25.5.2023 while the petitioner- accused Roshan Lal was arrested on 30.5.2023. During investigation, the allegations regarding intentional termination of pregnancy of the complainant by the accused were found false and section 313 IPC was dropped. It is matter of evidence to come to a conclusion as to whether the petitioner-accused had actually raped the complainant as Section 376 IPC was added only after recording of statement of complainant u/s 164 Cr.PC and not at the time of lodging FIR. At this stage, it is not believable that the co-accused Rekha who had entered into second marriage with the petitioner-accused Roshanlal or the co-accused Shanno Devi who is the grandmother-in-law of the complainant would have exhorted the petitioner-accused to commit rape upon the complainant as otherwise portrayed by the complainant in her complaint moved before the police. It is seen that co-accused Shan Kaur @ Shanno Devi and Rekha have already been granted anticipatory bail earlier by the court of Sh. Yogesh Chaudhary, the then learned ASJ,

Karnal vide orders dated 21.3.2023 and 31.3.2023, respectively while co-accused Gurcharan Singh is on regular bail”.

From a perusal of the above findings, it is clear that there is no allegation of, or mention of commission of rape by the respondent No.2 in the complaint made by the petitioner on the basis of which FIR dated 13.3.2023 was registered. The petitioner has levelled allegations of rape against the respondent No.2 only in her statement under Section 164 CRPC on 14.3.2023. Learned Counsel for the petitioner could not give any reason as to why the allegation of rape was not included in the first instance at the time of registration of FIR. Moreover, upon investigation, charges under section 313 IPC against the respondent No.2 have been dropped. Ld. counsel for the petitioner is unable to dispute or controvert the above findings or show anything to the contrary.

Accordingly, I find no error in the reasoning of the learned Court below. I find no ground is made out to set aside the regular bail granted to the respondent vide the impugned order.

Present petition stands **dismissed**.

28.07.2023.
Joshi

(Nidhi Gupta)
Judge