

289

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-48454-2023
Date of decision: 7th December, 2023

Karamjit Kaur @ Mamta

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Yajur Sharma, Advocate for the petitioner.
Mr. Kunwarbir Singh, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
125	24.04.2023	Sadar, District Amritsar	363, 366, 376, 506 and 109 of the Indian Penal Code, 1860 and Sections 6 and 17 of The Protection of Children from of Sexual Offences Act, 2012 (for short ‘the Act’)

2. The brief facts of the case, relevant for the purpose of disposal of this petition are that the aforementioned FIR has been registered on the basis of statement recorded by complainant ‘A’ (name withheld) alleging therein that victim who was her 17 years old niece (name withheld) had been brought up by his family and had been staying with them. She was studying in 10+2 class in a local school. On the same day, she had left for her school at 8:00 AM but did not come back. He had made search for her everywhere

and had come to know that she had been enticed away by the accused Sunny on the pretext of performing marriage with him. Initially, a case under Sections 363 and 366 of Indian Penal Code, 1860 was registered. Investigation proceedings were initiated. Accused Sunny was arrested on 04.06.2023. He suffered disclosure statement during investigation admitting his involvement in the kidnapping/abduction of the victim and also disclosed that he had taken the victim to the house of his sister Mamta i.e. present petitioner at village Dugalwal in an auto-rickshaw. His sister had forced the victim to wear *chura* (bangles which were worn at the time of marriage in punjabi families) and told that she had become daughter-in-law of their house. He also disclosed that victim had been sent with co-accused-Sunny by the petitioner to Allahabad on a train where she was kept in a hotel and then at other places. She was ravished by the co-accused-Sunny. Offences under Sections 376 and 506 read with Section 109 of Indian Penal Code, 1860 and section 6 read with Section 17 of the Act were added later on. The petitioner was arrested on 07.06.2023. Investigation has since been completed and challan has been filed in the Court.

3. The present petition has been filed on the grounds and learned counsel for the petitioner has argued that she has been falsely implicated in this case. She was not nominated in the FIR. The only allegation as levelled by the victim against the petitioner in her statement as recorded under Section 164 of Cr.P.C. is that she had forcibly made her wear *chura*. The allegations as levelled against her do not make out any case for commission of offence of kidnapping/abduction and criminal intimidation. There is nothing on record to show that petitioner who is married sister of co-accused-Sunny and is residing in her matrimonial house at District Tarn

Taran, has abetted the commission of offence of rape/aggravated penetrative sexual assault upon the victim by the co-accused. She is in custody since 07.06.2023. Investigation has since been completed. Her custodial interrogation is not required. Trial is likely to take time. Hence, it is argued that she deserves to be given concession of bail.

4. *Per contra*, learned State counsel has argued that there are serious and specific allegations against the petitioner. She had abetted the commission of offence of rape by her brother i.e. co-accused Sunny on the victim and had a hand behind abduction and kidnapping of the victim. She had sent the victim with the co-accused Sunny to Ahmedabad by train. There are chances of her intimidating the victim who is yet to be examined. It is, therefore, argued that the present petition does not deserve to be allowed.

5. As per the allegations, the accused-Sunny who is brother of the present petitioner had taken the victim to the matrimonial house of the present petitioner situated in Village Dugalwal, District Tarn Taran on 24.04.2023. The petitioner had facilitated there stay, had made the victim wear a *chura* and had sent them to Allahabad and had abetted the commission of offence of rape by the petitioner. From a perusal of the statement recorded by the victim under Section 164 Cr.P.C., it appears that the only allegation that had been made by her against the petitioner was that she had made the victim *chura* and that she was sent alongwith the co-accused- Sunny to Allahabad in a train. There is no allegation that the petitioner had hand in kidnapping/abduction of the victim. It is also debatable as to whether she had abetted the commission of offence of rape upon the victim by the co-accused Sunny? She is in custody since 07.06.2023. Investigation has since been completed. Custodial interrogation

of the victim is not required. As such in the considered opinion of this Court, no useful purpose would be served by keeping the petitioner in custody any more. Keeping in view the nature of allegations as levelled against the petitioner, period spent by her in custody and the attendant fact and circumstances of the case, it is held that the petitioner deserves to be given concession of bail. Hence, the petition is allowed. The petitioner is ordered to be released on bail, subject to her furnishing bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

6. It is, however, clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

7. Since the main case has been disposed of, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

7th December, 2023
Parveen Sharma

1. Whether speaking/ reasoned

:

Yes / No

2. Whether reportable

:

Yes / No