

Neutral Citation No.2023:PHHC:141356

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

210

CRM-M No.54260 of 2023
Date of decision: 06.11.2023

Darshana Devi

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Balkaran Singh Aulakh, Advocate,
for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.
for the respondent-State.

MANISHA BATRA, J.

1. The instant petition has been filed by the petitioner under Section 439 of Cr.P.C. seeking grant of regular bail in case bearing FIR No.13 dated 25.01.2018 registered at Police Station Lambi, District Sri Muktsar Sahib under Sections 201, 313 and 314 of IPC. This FIR had been registered on the basis of statement recorded by the complainant Rani Devi on 25.01.2018 alleging therein that her younger sister Reena was pregnant. On 18.01.2018 she started feeling severe pain in her abdomen and was taken by the complainant to the petitioner who was a Nurse residing in the neighbourhood. The petitioner without asking the complainant and her sister aborted foetus in the womb of her sister with some crude tools due to which the condition of her sister had become critical. She was admitted in hospital on 20.01.2018 but died due to the

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forced abortion as done by the petitioner. She prayed for taking penal action against the culprit. After registration of FIR, investigation proceedings were initiated. The petitioner was apprehended and taken into custody on 04.02.2021. After completion of investigation and usual formalities, challan under Section 173 Cr.P.C. was presented in the Court for trial of the petitioner and presently she is facing trial for alleged commission of offences for which she had been booked. She had moved three applications for grant of bail before the learned trial Court one of which was dismissed as withdrawn and two were dismissed on merits. The present petition has been filed by her on the grounds and it was argued by her counsel that the victim had died due to Cardio Pulmonary Arrest. The petitioner had been falsely implicated in this case. She was in custody since 04.02.2021. The trial was likely to take time. The complainant had not supported the prosecution version before trial Court. Hence, it was argued that in view of the fact that there was no incriminating evidence against her on record, she deserved to be given concession of bail.

2. The learned State counsel who has received advance notice of the petition has contested the petition without choosing to file any reply and has submitted that as there were serious allegations against the petitioner, hence, she was not entitled to concession of bail.

3. I have heard learned counsel for the petitioner and learned State counsel and I have gone through the record.

4. The petitioner was alleged to have caused miscarriage/abortion

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of the sister of the complainant without her consent which resulted in her death subsequently. The complainant who was the most material witness of the case has, however, not supported the allegations as levelled in the FIR in her sworn deposition as recorded in the Court, copy of which has been placed on record as Annexure P-2. Rather she is shown to have stated that she had never taken her sister to the petitioner or to any hospital and that she had seen the petitioner for the first time in the Court. She is shown to have totally resiled from her version as given to the police. As such, it emerges that no incriminating evidence has come on record as against the petitioner after the examination of the complainant in the Court. The trial is likely to take more time. Keeping in view the nature of statement as recorded by the complainant in Court, no useful purpose is going to be served by keeping the petitioner in custody any more. Taking into consideration the period already spent by her in custody, the nature of testimony of the complainant and the entire facts and circumstances of the case but without meaning to make any comment on the merits of the case, I am of the opinion that the petition deserves to be allowed. Hence, the same is allowed and the petitioner is ordered to be admitted to bail subject to her furnishing personal/surety bonds to the satisfaction of learned trial Court/CJM of Sri Muktsar Sahib.

(MANISHA BATRA)
JUDGE

06.11.2023
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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No