

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

241

CRA-S-488-2024 (O&M)
Date of decision: 15.04.2024

RENU

...Appellant

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present : Mr. A.K. Bishnoi, Advocate
for the appellant.

Mr. Kirpal Singh Thakur, AAG, Haryana.

None for respondent No.2.

HARPREET KAUR JEEWAN, J.

1. The present appeal has been filed for setting aside the order dated 02.11.2023 passed by the learned Additional Sessions Judge, Fast Track Special Court, Hisar, whereby the regular bail application filed by the appellant was dismissed in case bearing FIR No.305 dated 06.07.2023 under Sections 363, 366-A, 376(2)(n), 120-B of the IPC, Sections 6,17 of the POCSO Act, 2012 and Section 3(2)v of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 registered at Police Station Narnaund, District Hisar.
2. Custody certificate dated 10.04.2024 has been filed on behalf of the respondent-State, which is taken on record. As per the custody certificate, the appellant has undergone 07 months and 25 days of actual custody.

3. Learned counsel for the appellant *inter alia* contends that the appellant has been falsely implicated in this case and she is in custody since 16.08.2023. The appellant is 27 years old woman having one year old child, who is living with her in the jail. He further contends that initially the FIR was registered at the instance of the father of the prosecutrix, wherein there were no allegations against the appellant. The allegations were only against the co-accused-Deepak and the appellant is not related to co-accused-Deepak in any manner. He submits that the prosecutrix initially refused for her medical examination as per her statement dated 10.07.2023 (Annexure P-2) and even in her statement recorded under Section 164 Cr.P.C. on 10.07.2023 (Annexure P-3), the prosecutrix has stated that she had gone to Salasar with her own will, without any pressure. The prosecutrix has further stated that she came back on her own from Salasar. During the recording of the statement of the prosecutrix, she was about 16 years of age. However, subsequently on 11.07.2023 (Annexure P-4), the prosecutrix got recorded another statement under Section 164 Cr.P.C., wherein she stated that she want to get herself medically examined. Her statement under Section 161 Cr.P.C. was again recorded on 11.07.2023 (Annexure P-5). Even in the said statement, she has not made any allegation against the appellant as well as in the subsequent statement recorded by the Deputy Superintendent of Police, Narnaund (Annexure P-6). He submits that for the first time in the supplementary statement, which was recorded after a long time i.e. on 25.07.2023 (Annexure P-7), the prosecutrix has levelled allegations against the appellant that she had been visiting the house of the appellant and in the month of June, the appellant made her talk to the co-accused-Deepak Goswami. The prosecutrix has further stated that on 14.06.2023, the appellant called Deepak at her home and she locked them

in a room. He further submits that the trial is going to take time to conclude, as such, prayer for releasing the appellant on bail has been made.

4. On the other hand, learned State counsel on instructions from ASI Reenu opposed the bail appeal on the ground of gravity of allegations levelled against the appellant. He has informed that co-accused-Deepak has already been arrested and there are total 28 witnesses, which are yet to be recorded.

5. As per the office report dated 28.02.2024, notice to respondent No.2 has been duly served. However, there was no representation on behalf of the respondent No.2 on the last date of hearing i.e. 29.02.2024 and even today none has put in appearance on behalf of respondent No.2.

6. The appellant who is a female and carrying a one year old child in the jail and she is custody for the last 7 months and 25 days. Challan has already been presented before the trial Court and charges have also been framed. There are total 28 witnesses and none has been examined so far, as such trial will take some time to conclude. There is no history of other cases registered against the appellant.

7. Keeping in view the totality of the circumstances and also the fact that the appellant is a female and is carrying a minor child in the jail, the appeal is allowed.

8. The impugned order dated 02.11.2023 is set aside and the appellant is ordered to be released on regular bail, subject to her furnishing adequate bonds bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

9. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

10. Pending miscellaneous application (s), if any, shall also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

15.04.2024
P.Bhatt

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