

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.8718 of 2024
Date of Decision: 23.04.2024

Sarabjit Kaur @ Sarabjeet Kaur ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Anmol, Advocate,
for the petitioner.

Mr. Amandeep Singh Samra, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J.(Oral)

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

FIR No.	Police Station	Sections
473	City Faridkot, District Faridkot	376-D of IPC and 3 and 4 of Protection of Children from Sexual Offences Act, 2012 (For short “POCSO Act”)

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on the basis of statement recorded by the prosecutrix “A” (name withheld) who was a 14 years old girl on 05.11.2022 alleging therein that she used to reside with her father but on 23.07.2022, the petitioner who is her mother had come to her school and she was taken the prosecutrix to her maternal grandmother’s house. Her father had moved application for taking her back but by making statement in favour of mother, she had started living

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with her. She alleged that her mother shifted to a rented house at Balbir Basti, Faridkot subsequently. The co-accused Pammi was also living in the same premises and she was indulged in immoral activities/flesh trade. The mother of the prosecutrix also joined her in those activities. When the prosecutrix came to know about this fact, she had quarreled with her mother as well as the co-accused but was persuaded by her mother and was made to keep quiet on the plea that all this was done for the benefit of the prosecutrix. She alleged that sometime thereafter, the co-accused Sukha Singh, Kala, Bobby and Gurcharan Singh had started visiting her house. The petitioner facilitated the commission of aggravated penetrative sexual assault/rape upon her by the above named accused. She was not happy and even made attempts to flee away but the same had turned futile as the petitioner used to keep vigil on her. She, however, managed to apprise about her woes to her paternal aunt on 25.10.2022 and was able to get herself released from clutches of her mother.

3. As per the further allegations, the matter was reported to the police and she decided to go with her father. On the basis of her statement and after registration of FIR, investigation proceedings were initiated. She was medically examined. The petitioner was arrested on 05.11.2022. The co-accused were also arrested. Presently, the petitioner along with the co-accused is facing trial for commission of offence of facilitating the co-accused with the act of aggravated penetrative sexual assault/gang rape in connivance with them and also abetting the commission of offence of aggravated penetrative sexual assault/gang rape as well as of immoral trafficking of the prosecutrix. Offences under Sections 376-DA, 372, 34, 506 and 120-B of IPC and Sections 5, 6 and 16 of POCSO Act were also added.

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She had moved an application for grant of regular bail before the learned trial Court but the same was dismissed vide order dated 19.07.2023.

4. It is argued by learned counsel for the petitioner that she has been falsely implicated in this case on the instigation of her paternal grandmother, sister-in-law of paternal grandmother who is a police official as they are not having good relations with the petitioner. The prosecutrix has been used as a tool by them. Even the father of the prosecutrix i.e. her husband has sworn an affidavit in favour of the petitioner in this regard on 30.01.2023. As per the medico legal examination report, no fresh mark of injury or bleeding were found on the body of the prosecutrix. No human semen or male DNA was detected on the vaginal swabs etc. of the prosecutrix. The prosecutrix has since been examined. There are no chances of her intimidating the prosecutrix and her grandmother. No useful purpose would be served by keeping her in custody any more. Therefore, it is argued that she deserves to be given concession of bail.

5. Per contra, learned State counsel has argued that there are specific, serious and grave allegations against the petitioner who facilitated the commission of act of repeated gang rape upon the minor prosecutrix by indulging her into flesh trade and her immoral trafficking and she herself was involved in the same activities. The prosecutrix has supported the version of the prosecution in her sworn deposition. The trial is going on at a fast pace. There are chances of the petitioner's absconding if extended benefit of bail. Therefore, it is argued that the petition does not deserve to be allowed.

6. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record.

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7. The petitioner is not only alleged to have facilitated/abetted the commission of aggravated penetrative sexual assault/gang rape upon the prosecutrix repeatedly by the co-accused but is also alleged to have indulged in the business of immoral trafficking in connivance with the co-accused Pammi. The copy of statement of the prosecutrix has been placed on record as Annexure P-4 which reveals that she has fully supported the version as given by her at the time of lodging of FIR. Her statement is supported by the testimony of her grandmother PW-2 (Annexure P-5). There is nothing on record to show that there would be any delay in conclusion of the trial. No copy of affidavit alleged to be sworn by the husband of the petitioner in her favour is placed on record. The allegations against the petitioner are specific and serious in nature. Keeping in view the gravity of these allegations, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, I am of the considered opinion that the petitioner does not deserve to be given concession of bail. Hence, her plea for bail is rejected. The petition stands dismissed.

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

23.04.2024
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(MANISHA BATRA)
JUDGE

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