



Sr. No.106+204
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-23773-2024
CRM-23774-2024 in/and
CRM-M-8116-2024 (O&M)
Date of decision: 01st July 2024

CHANDER PRABHA**Petitioner**

versus

STATE OF PUNJAB**Respondent**

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Ms. Bhupinder Kaur, Advocate for
Mr. Gulzar Mohd., Advocate
for the applicant-petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

HARPREET KAUR JEEWAN, J.

CRM-23773-2024

The present petition has been filed under Section 482 Cr.P.C. for placing on record order dated 21.05.2024, passed by this Court as Annexure P-5.

Keeping in view the averments made in the application, the same is allowed. Order dated 21.05.2024 is taken on record as Annexure P-5, subject to all just exceptions.

CRM-23774-2024

This application has been filed under Section 482 Cr.P.C. for preponing the date of hearing of the main case from 01.07.2024 to some early date.

Disposed of as having been rendered infructuous.

CRM-M-8116-2024 (O&M)

1. The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking regular bail in case FIR No.147 dated



01.12.2023, under Sections 376, 506, 315 IPC, 1860 and Sections 3, 4 of Protection of Children from Sexual Offences Act, 2012 (Sections 201, 376(3), 120-B, 34 IPC and Sections 6, 17 of Protection of Children from Sexual Offences Act, 2012 added later on), registered at Police Station Sadar Nakodar, District Jalandhar Rural (Annexure P-1).

2. Learned counsel for the petitioner *inter alia* contends that the petitioner is the mother of the co-accused namely Pardeep Kumar against whom, allegations under Section 376 IPC have been levelled in the FIR. There are no allegations against the petitioner in FIR No.147 dated 01.12.2023. On the basis of the statement of the prosecutrix recorded under Section 161 Cr.P.C. on 21.12.2023, the petitioner has been nominated. However, the prosecutrix has not levelled any allegations against the petitioner in her statement recorded under Section 164 Cr.P.C. on the same day i.e. 21.12.2023. The petitioner is in custody since 03.01.2024.

3. Notice of motion.

4. Ms. Sakshi Bakshi, AAG, Punjab accepts notice on behalf of respondent-State of Punjab and filed custody certificate of the petitioner dated 30.06.2024, reflecting his period of custody as 05 months 27 days. There is no history of any other case pending against the petitioner as per the custody certificate.

5. Learned State counsel, while referring to the status report dated 21.05.2024, filed by way of affidavit of Sh. Kulwinder Singh, PPS, Deputy Superintendent of Police, Sub-Division Nakodar, District Jalandhar (Rural), in the connected petition bearing No. CRM-M-13796-2024, titled as “*Jagdeep Kumar @ Jakhu vs. State of Punjab*”, submits that FIR No.147 dated 01.12.2023, under



Sections 376, 506 IPC and Sections 3, 4 of POCSO Act (Sections 315, 34 IPC, 376(3), 120-B, 201 IPC and Sections 6, 17 of POCSO Act added later on), was initially registered against the accused person namely Pardeep Kumar @ Jakhu on the basis of the statement of the complainant dated 01.12.2023, wherein, she levelled allegations against co-accused of the petitioner namely Pardeep Kumar that he had repeatedly committed rape upon her since June 2018. On 02.12.2023, the medical examination of the victim was got conducted from Civil Hospital, Nakodar, where, she was found to be pregnant. Thereafter, the victim did not appear before the Medical Officer for completion of other medical formalities and her swab samples could not be taken. On 15.12.2023, the victim got recorded her statement before the Police in which she stated that on 04.12.2023, her mother namely Rajni brought her to the house of her aunt from where she was taken to Amritsar along with the present petitioner-Chander Prabha and other persons and then she was taken to a lady doctor. On 04.12.2023, she was inhaled some medicines by the lady doctor and on 06.12.2023, her abortion was conducted. On 13.12.2023, the victim was admitted to Civil Hospital, Jalandhar, due to medical issues. On the basis of the statement of the victim recorded on 15.12.2023, a Zero FIR bearing No.150 dated 15.12.2023, was registered against the present petitioner and other persons under Sections 315, 34 IPC at Police Station Sadar Nakodar. On 21.12.2023, the statement of the victim was recorded under Section 164 Cr.P.C. by the Sub-Divisional Judicial Magistrate, Nakodar. During the course of investigation, offence under Sections 315 and 34 IPC was added in FIR No.147 dated 01.12.2023 vide DDR No.19 dated 03.01.2024. The petitioner as well as his co-accused namely Jagdeep Kumar @ Jakhu @ Vicky were arrested on 29.12.2023 in FIR No.147 dated 01.12.2023. During the course of investigation in FIR No.147,



the offence under Sections 376(3), 120-B IPC and Section 17 of Protection of Children from Sexual Offences Act, 2012, were added in the said FIR vide DDR No.20 dated 27.01.2024. Final report/challan under Section 173 Cr.P.C. was presented on 31.01.2024. During the course of arguments, learned State counsel also submitted that the statement of the prosecutrix under Section 164 Cr.P.C. was recorded on 21.12.2023.

6. I have considered the aforesaid contentions and perused the paper book.

7. The allegations of repeated sexual abuse of the victim are against the co-accused of the petitioner namely Pardeep Kumar. The petitioner is the mother of Pardeep Kumar. FIR was lodged on 01.12.2023 at the instance of the prosecutrix. The victim levelled allegations of repeated sexual abuse against co-accused Pardeep Kumar. There are no allegations against the present petitioner in the FIR. The petitioner has been nominated on the basis of subsequent statement of the prosecutrix recorded by the Sub-Inspector after 21 days (Annexure P-2). Though the petitioner is alleged to have been nominated in the supplementary statement of the prosecutrix, however, she has neither named the petitioner nor attributed any role to him in the her statement recorded by the Magistrate under Section 164 Cr.P.C. The said statement under Section 164 Cr.P.C. was also recorded on the same day on which the supplementary statement (Annexure P-2) is stated to have been recorded i.e. 21.12.2023.

8. The petitioner is in custody since 03.01.2024. Investigation is complete and final report/challan under Section 173 Cr.P.C. has been presented. The petitioner is 54 years of age. The contradiction in the statement of the victim recorded under Section 164 Cr.P.C. and the statement recorded under Section 161



Cr.P.C. on 21.12.2023 is a matter of trial. The petitioner is not named even in the FIR.

9. Keeping in view the above facts, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to her furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

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

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

(HARPREET KAUR JEEWAN)
JUDGE

01st July 2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No