

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

209

CRM-M-11967-2022 (O&M)
Date of decision: 09.04.2024

PARVATI DEVI ALIAS PAWRWATI

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present : Mr. Manuj Nagrath, Advocate
for the petitioner.

Mr. Adesh Pal Singh, AAG, Punjab.

HARPREET KAUR JEEWAN, J.

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.103 dated 29.07.2021 (Annexure P-1) under Section 376-DA of the IPC and Section 6 of POCSO Act, 2012 (Sections 313, 120-B IPC added later on), registered at Police Station Shimlapuri, District Ludhiana.
2. Custody certificate dated 08.04.2024 has been filed on behalf of the respondent-State, which is taken on record. As per the custody certificate, the petitioner has undergone 02 years 06 months and 24 days of actual custody.
3. As per the prosecution case, the matter came to the notice of the police upon a complaint made by the school teacher of the child-victim and it is an allegation against the co-accused of the petitioner-Ajay Kumar, Binay Kumar and

Suraj @ Bunty that they had been forcibly committing rape upon the prosecutrix. The petitioner is mother of the prosecutrix and her co-accused-Ajay Kumar, Binay Kumar and Suraj @ Bunty are brother of the prosecutrix.

4. Learned counsel for the petitioner *inter alia* contends the petitioner has been falsely implicated in the present case and is in custody for 02 years 06 months and 24 days. He further contends that the alleged occurrence took place on 25.07.2021 and on that day the petitioner, who is mother of the victim was not present at home. He submits that there is no medical evidence regarding abortion of the victim as the statement of any nurse or doctor has not been recorded. He further submits that there is no reference about the sexual abuse in the first statement however these allegations are afterthought and came for the first time in the statement of the prosecutrix recorded under Section 164 Cr.P.C. The trial is going to take time to conclude, as such, prayer for releasing the petitioner on bail has been made.

5. On the other hand, learned State counsel on instructions from concerned Investigating Officer opposes the bail on the ground of gravity of allegations levelled against the petitioner.

6. I have considered the aforesaid contentions. As per the prosecution case, the victim is student of 8th standard and her date of birth is 11.10.2006. As per the status report filed on behalf of respondent-State, the date of birth of the prosecutrix has been verified as 11.10.2006. There are specific allegations that on 25.07.2021 at about 4.30 pm, the elder brother of the prosecutrix-Ajay Kumar forcibly made physical relationship with the prosecutrix. Keeping in view the date of birth of the prosecutrix, she was 14 years old at that point of time. It is further an allegation that prosecutrix had disclosed her teacher while crying that her

brother namely Ajay Kumar, Binay Kumar and Suraj @ Bunty were forcibly making physical relationship with her in the house since long time.

7. As per the status report, the statement of the victim was recorded under Section 164 Cr.P.C. on 31.07.2021. In the said statement, the prosecutrix has corroborated the entire version about committing rape by the three co-accused of the petitioner. The prosecutrix has further disclosed that she had told many times to her mother(present petitioner) about the whole incident but she used to make the prosecutrix silent by condemning her. There are further allegations in the said statement that the prosecutrix became pregnant due to the rape committed by three co-accused of the petitioner. However, the present petitioner-mother of the prosecutrix had given medicine to get aborted the child and with the said medicine, abortion of the foetus of the prosecutrix was done.

7.1. In the said statement, the child-victim has further disclosed that earlier she had 5 months old foetus in her abdomen but the petitioner got aborted the same by administering pills to her through some nurse. The allegations of conniving the petitioner with the co-accused were also levelled, as such offence under Sections 120-B and 313 IPC were added on 12.08.2021.

8. No doubt the final report under Section 173 Cr.P.C. has been presented before the trial Court and custody of the petitioner is about 02 years 06 months and 24 days. But keeping in view the fact that the allegations against the petitioner are of gang rape of a victim who is below the age of 15 years and also the allegation constitute an offence punishable under Section 6 of POCSO Act, 2012, it is not a fit case to release the petitioner on bail. The petitioner being mother of the victim is the first guardian and co-accused of the petitioner, who are brothers of the victim had been residing in the same house. The allegations of

tearing a pious relationship are there against the co-accused of the petitioner and also connivance of the petitioner with co-accused.

- 9. In view of the above, no ground is made out to release the petitioner on bail.
- 10. Consequently, the present petition is dismissed.
- 11. Pending miscellaneous application (s), if any, shall also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

09.04.2024
P.Bhatt

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