

CRM-M-13633-2023-1-

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-13633-2023

Date of decision: 5th January, 2024

Sawarna Rani

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Baljeet Nain, Advocate for the petitioner(s)
Mr. M.S. Nagra, AAG, Punjab
for the respondent-State.

MANISHA BATRA, J (ORAL):-

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

FIR No.	Dated	Police Station	Sections
84	06.05.2022	Sadar Fazilka, District Fazilka	450, 376, 511, 323 of Indian Penal Code, 1860 and 8 POCSO Act, 2012

2. Brief facts relevant for the purpose of disposal of this case are that the aforementioned FIR was registered on the basis of statement of complainant ‘G’ (name withheld) alleging therein that she belonged to village Rana but was staying at Hanumangarh alongwith her children to do labour work. On 30.04.2022, her children including the victim who is her daughter aged 14 years had gone to village Rana, whereas she herself was in the house of her sister at Hanumangarh. On the same night, the accused Kakki Masih and the petitioner went to her house, they took her daughter in the room of their house where accused Kakki Masih tried to commit rape upon her. On raising alarm by her daughter, they had run away. Her daughter disclosed about the occurrence to her through phone on the next day. She

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had gone to her village. The FIR was registered on 06.05.2022. Investigation proceedings were initiated. The present petitioner was arrested on 31.01.2023. Investigation is still going on.

3. It is submitted in the petition and learned counsel for the petitioner vehemently argued that the petitioner has been falsely implicated in this case. Infact, the complainant and her daughter had taken an amount of ₹ 60,000/- on loan from the petitioner on 27.03.2022. Due to not returning of the said loan amount, the petitioner had filed a complaint against them under Section 138 of Negotiable Instruments Act, 1881 in the year 2022 and the present case was a counter blast to the same. The co-accused Kakki is brother-in-law of the petitioner. The houses of the complainant and petitioner are in a thickly populated area, wherein as many as 250-300 others houses are existing and it cannot be assumed that any attempt to commit rape upon the daughter of the complainant could be made in such area. It is further submitted that now even the complainant and her mother have sworn affidavits in favour of the petitioner and have also executed a compromise. The petitioner is in custody for a period of about one year. Trial is likely to take time. No useful purpose would be served by keeping him in custody. Hence the petition deserves to be allowed.

4. *Per contra*, learned State counsel has argued that there are serious allegations against the petitioner and therefore, she does not deserve to be given concession of bail.

5. Mr. V.S. Kathpal, Advocate has put in appearance on behalf of the complainant and filed his Vakalatnama. He has submitted that a compromise Annexure P-2 has been executed by the complainant in favour of the petitioner.

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through record.

7. As per the allegations, the petitioner alongwith the co-accused Kakka Masih who is her brother-in-law had trespassed in the house of complainant where in with her connivance, the co-accused made an attempt to commit rape upon her daughter. The investigation has since been completed. Challan has been presented. Charges have been framed. Trial is likely to take time. The petitioner has placed on record copies of some compromise stated to have been arrived at between the complainant and herself as well as an affidavit shown to be sworn by the mother of the victim in this point. Though, no consideration can be given to these documents at this stage, however, still keeping in view the nature of the allegations that have been leveled against the petitioner, the period spent by her in custody, the quantum of sentence which the conviction may entail and the entire facts and circumstances, I am of the considered opinion that it is a fit case of given concession of bail to the petitioner.

8. Hence, the petition is allowed and the petitioner is ordered to be released on bail subject to her furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

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

10. Since the main case has been disposed of, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

5th January, 2024
Parveen Sharma

1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No