

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

206-2

CRM-M-49463-2023 (O&M)
Date of decision: 05.03.2024

Paramjit Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Angel Walia, Advocate
for the petitioner

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail in FIR No. 80 dated 17.04.2023, registered under Sections 363, 506, 376, 120-B of the IPC and Section 4 of the POCSO Act, 2012 at Police Station Civil Lines, District Police Commissionerate Amritsar.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint submitted by complainant 'P' (*name withheld*) on 17.04.2022 as against the co-accused Amarjit Singh @ Deepak, Sarabjit Kaur and Manrpreet Kaur alleging therein that the accused Amarjit Singh @

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Deepak had been stalking the victim, who was studying in a local school. He entrapped her and by alluring and enticing her, he took her to the house of his Bhabhi, wherein he committed rape upon her against her consent and she was then threatened to not to disclose this fact to any other person. He handed over her custody to her parents on the same day but thereafter also, kept on ravishing her by blackmailing her. The victim then disclosed about this fact to her parents and due to the intervention of the respectables of the *Biradari Panchayat*, their marriage was solemnized on 20.08.2022. Thereafter, the accused Amarjit Singh @ Deepak again ravished her despite her resistance and despite knowing that she was a minor. When she disclosed about this fact to the co-accused Manpreet Kaur and Sarabjit Kaur, who are sisters of the accused Amarjit Singh @ Deepak, then they too extended threats to kill her, if she refused to have sexual intercourse with co-accused Amarjit Singh @ Deepak. As per further allegations, six months after the marriage of the victim with the co-accused Amarjit Singh @ Deepak, she was thrown out of her matrimonial house and it came to her knowledge that he had performed marriage with her only with a view to not get himself implicated some case as he wanted to go abroad.

3. As per further allegations, during the course of investigation, medical examination of the victim was conducted. The co-accused were extended benefit of bail. The statement of the victim was recorded under Section 164 Cr.P.C., wherein she alleged that the accused Amarjit Singh @ Deepak had committed rape upon her on the abetment of his sister-in-law, though she did not take the name of her sister-in-law specifically but the present petitioner, who is sister-in-law of accused Amarjit Singh @ Deepak

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was nominated as accused on the basis the disclosure statement recorded by co-accused Sarabjit Kaur. She was arrested on 23.08.2023 and is in custody since then. The co-accused Amrjit Singh @ Deepak had absconded and proclamation proceedings had been initiated against him. Presently, the petitioner is facing trial for commission of offences punishable under Sections 120-B and 376 of IPC. She had moved an application for grant of regular bail before the trial Court but the same had been dismissed, vide order dated 18.09.2023.

4. The present petition has been filed by the petitioner on the grounds and it has been argued by her counsel that she has been falsely implicated in this case. She was not named in the FIR. The only allegation that has been levelled against her is that the co-accused Amarjit Singh @ Deepak has committed rape upon the victim in the house of the petitioner. However, on the basis of this allegation, her involvement in the subject crime is not made out nor it is proved that she had hatched any conspiracy with the co-accused. In fact, the victim and co-accused Amarjit Singh @ Deepak were in love with each other and they had eloped from their respective houses. Subsequently, the matter was compromised and their marriage was solemnized on 20.08.2022. The victim had left her matrimonial home due to temperamental differences with the co-accused Amarjit Singh @ Deepak. The petitioner was residing separately from him. Her custodial interrogation is no more required. The trial is likely to take time. Therefore, he has argued that the present petition deserves to be allowed.

5. The petition has been resisted by the respondent-State in terms of the status report. It is submitted therein and learned State counsel has

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vehemently argued that there are specific and serious allegations against the petitioner as her name was nominated as accused in the disclosure statement of co-accused Sarabjit Kaur. The main accused is absconding. There is nothing on record to show that there would be any undue delay in conclusion of trial. Therefore, it is argued that the petition deserves to be dismissed.

6. I have heard learned counsel for the parties at considerable length and have also perused the material placed on record carefully.

7. The petitioner, who is sister-in-law of main accused Amarjit Singh @ Deepak, who is stated to have absconded, is alleged to have entered into a criminal conspiracy with him, in pursuance of which, the co-accused had ravished the victim. It has, however, come on record that marriage between the co-accused and the victim had been solemnized. From the allegations as levelled in the FIR and even on the basis of statement of the victim as recorded under Section 164 Cr.P.C., it is made out that co-accused Amarjit Singh @ Deepak had maintained physical relations with the victim once in the house of the petitioner. However, from this, it cannot be conclusively inferred that the petitioner was present in her house at that time and there was any connivance on her part. She is in custody since 23.08.2023. Investigation has since been completed. Trial is likely to take some time. No useful purpose would be served by keeping her in custody any more. Keeping in view the nature of allegations as levelled against the petitioner, the period spent by her in custody and the attendant facts and circumstances of the case, I am of the considered opinion that the petitioner deserves to be given benefit of regular bail.

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8. Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail, subject to her furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.
9. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

05.03.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No