

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-52421-2023 (O&M)

Date of decision : 26.02.2024

Sushila Devi

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. V.P.Sangwan, Advocate for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana for the respondent.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail to the petitioner in FIR No.0413 dated 11.09.2023, under Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015, registered at Police Station Purani Sabzi Mandi, District Rohtak.

(2) Above FIR was registered on the basis of complaint made by District Child Welfare Officer with the allegations that petitioner, who was posted as Educator in Jagannath Ashram, Bal Bhavan, Rohtak, along with co-accused Manju (Superintendent) had tied minor girl with rope and thereafter gave beatings to her.

(3) Contends that petitioner was granted interim bail by this Court, vide order dated 08.11.2023, and in pursuance thereof, she has already joined the investigation; thus, her custodial interrogation is not required. Also

contends that after the alleged occurrence, services of the petitioner have been terminated by the competent authority on 11.07.2023.

(4) *Per contra*, learned State Counsel, on instructions from DSP Ravi Khundiya, opposed the prayer while submitting that petitioner remained insensitive towards the special children; hence, she does not deserve the concession of pre-arrest bail.

(5) Heard learned Counsel for the parties and perused the paper-book.

(6) It is not in dispute that petitioner was granted interim bail by this Court on 08.11.2023 and the order reads as under:-

“Application for stay of arrest of the petitioner during the pendency of present petition.

Notice of the application to the non-applicant for 21.11.2023, i.e. the date already fixed in the main case.

Mr. Kiran Pal Singh, AAG, Haryana, accepts notice on behalf of the respondent-State and seeks time to have instructions and/or file written response in the matter.

Learned State counsel is also requested to visit the Jagannath Ashram, Bal Bhavan, Rohtak, personally and submit a comprehensive report regarding treatment meted out to the children.

Report be submitted before the date fixed.

In the meanwhile, petitioner shall join investigation before the Investigating Officer. In the event of arrest, the Arresting Officer would admit her to interim bail, till the next date of hearing, on furnishing adequate bail and surety bonds to his satisfaction. The petitioner shall also abide by all the conditions as envisaged under Section 438(2) of the Code of Criminal Procedure, 1973.

Deputy Commissioner, Rohtak shall compensate the Officer to the tune of Rs.30,000/- (Rupees thirty thousand only), by way of a demand draft.”

(7) It is acknowledged by learned State Counsel that in pursuance of the aforesaid order, petitioner joined the investigation and relevant material has already been recovered by the police.

It has also come on record that on account of the alleged occurrence, services of the petitioner were terminated by the competent authority on 11.07.2023.

In view of above, custodial interrogation of the petitioner shall not serve any purpose.

Consequently, present petition is allowed; interim order dated 08.11.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

(8) It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.

(9) The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.

(10) It is clarified that in case there is any recurrence on the part of the petitioner and/or she is required for further investigation, State would be at liberty to move an appropriate application for recalling of this order.

(11) Pending application(s), if any, shall also stand disposed off.

26th February, 2024
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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes