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295 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-56142-2023
Date of decision: 5th April, 2024

Rita Rani
...Petitioner(s)
Versus
State of Punjab
...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. G.S. Simble, Advocate for the petitioner.
Mr. A.S. Samra, AAG, Punjab.
Ms. Pratula Sethi, Advocate for the complainant.

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.	Police Station	Sections
122	P.S. Daba, Police District Police Commissionerate Ludhiana, District Ludhiana	376 and 120-B of Indian Penal Code, 1860 (for short ‘IPC’) and Section 6 of POCSO Act and Sections 3 and 4 of Immoral Traffic (Prevention) Act, 1956

2. The factual matrix of the case in brief is that the aforementioned
FIR was registered on the basis of statement recorded by the prosecutrix ‘P’
(name withheld) alleging therein that she used to reside with her aunt ‘K’
(name withheld) as her mother had died several years back. About four
months back, they had been living in the premises owned by the present

petitioner on rental basis and had shifted elsewhere about fifteen days back. She recorded that she used to still visit the petitioner being acquainted with her. On 11.12.2022, at about 2:00 PM, the victim was called through phone by the petitioner at her house. On reaching there, the petitioner found some unknown persons to be present there. The petitioner had offered some drink containing some intoxicating substance to her on consuming which, she had become unconscious and was put in a room by the petitioner wherein one of those unknown persons forcibly committed rape upon her. She also alleged that the said man had given a sum of Rs.500/- to the petitioner and the latter after keeping an amount of Rs.300/- with herself and gave an amount of Rs.200/- to the victim. She further alleged that on the same day, she was kept confined by the petitioner and three more persons had committed rape upon her one by one. On regaining her consciousness, she had started crying and had managed to go towards the house of her Aunt who got her admitted in the hospital. The victim was medically examined. Her statement under Section 164 of Cr.P.C. was also got recorded wherein she reiterated the same allegations. The petitioner was arrested on 12.12.2022. The persons who had ravished the victim however, could not be apprehended. After completion of necessary investigation as against the petitioner, challan has been presented against her and presently, she is facing trial. She had moved an application for grant of regular bail before the learned trial Court which was dismissed vide order dated 01.04.2023.

3. The present petition has been filed by the petitioner on the

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grounds and it has been argued by her counsel that she has been falsely implicated in this case. She is in custody for a period of more than one year and three months. The trial is likely to take time. The subject offences have not been made out against her. There are no chances of her absconding. She has a permanent abode. It is further argued that the victim has since been examined and hence, there are no chances of petitioner's intimidating the witness, if extended benefit of bail. The aunt of the victim did not support the version of the prosecution and has turned hostile. As such, the testimony of the prosecutrix herself cannot be believed. It is further argued that no useful purpose would be served by keeping her in custody. Hence, it is urged that she deserves to be given concession of bail.

4. Status report has been filed by learned State counsel is taken on record. Learned State counsel has argued that there are direct and specific allegations against the petitioner. There are chances of her absconding if extended benefit of bail. Therefore, the fact that the aunt of the prosecutrix has not supported her case is not a ground to discard the testimony of the prosecutrix who has fully supported the prosecution case. With these broad submissions, it is urged that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. As per the allegations, the prosecutrix who is living with her maternal aunt had been called by the petitioner at her house on 11.12.2022

wherein, the petitioner had facilitated the act of committing aggravated penetrative sexual assault upon the victim who is a fifteen years old minor girl by as many as four persons by taking money from them. The petitioner has placed on record copy of deposition of prosecutrix (Annexure P-4) and (Annexure P-5) copy of deposition of her maternal aunt. Undoubtedly, on a perusal of testimony of PW-2, it is revealed that she did not implicate the petitioner in the subject crime and had been declared hostile as she did not support the version of the prosecutrix. However, the prosecutrix while appearing as PW-1 is shown to have fully supported the version as earlier given by her and is also shown to have withstood the pertinent questions of cross-examination as put to her by the counsel defending the present petitioner before the trial Court. The allegations against the petitioner are serious as not only she is alleged to have facilitated the commission of offence of aggravated penetrative sexual assault upon the minor prosecutrix but is also alleged to have committed offence of immoral trafficking. It is also submitted in para No.9 of the petition itself, that she is involved in one more case bearing FIR No. 15 of 2021, registered under Section 304 of IPC at Police Station Daba, Ludhiana. Meaning thereby, she is having criminal antecedents. Trial is going on and there is nothing on record to show that there would be any undue delay in conclusion of the same. Keeping in view, the nature of subject offences, the quantum of sentence which the conviction may entail and the attending facts and circumstances of the case, I am of the considered opinion that the petition does not deserve to be allowed. Hence,

the same is dismissed.

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

8. Since the main petition has been dismissed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

5th April, 2024
Parveen Sharma

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No