

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

CRM-M-59773-2023

DATE OF DECISION : 06.02.2024

SUNITA @ BABITA

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Abhijeet Sharma, Advocate with
Mr. Ganesh Chand Sharma, Advocate for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.

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HARPREET KAUR JEEWAN, J. (ORAL)

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. 384 dated 30.10.2021 registered under Sections 323, 365, 376, 452, 506, 34 of IPC at Police Station Chandhut, District Palwal.

2. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in this case. She is legally wedded wife of Ravinder and out of their wedlock 4 children were born. The complainant has been illegally and unlawfully residing with the husband of the petitioner and they are having illicit relationship. On the basis of the said relationship, the complainant wants to get the whole property transferred from the father-in-law of the petitioner. As such, there was a quarrel due to the said issue in the relationship but the complainant got registered the present FIR in order to pressurise the petitioner and in order to throw her out of the matrimonial home and to grab the immovable ancestral property.

The petitioner is in custody for the last about 3 months since 05.11.2023.

3. On the other hand, learned State counsel has opposed the bail application. However, she has confirmed that the age of the prosecutrix is 38 years as per her statement recorded under Section 164 Cr.P.C. (Annexure P-4). The co-accused of the petitioner namely Savitri, who is the mother-in-law of the petitioner and Buddhan, who is father-in-law of the petitioner had already died. The State counsel has further confirmed that the allegations of rape are against the co-accused, Naresh.

4. Challan has been presented after completion of the investigation.

5. I have considered the aforesaid contentions. As per the version in the FIR, the complainant/prosecutrix was earlier married to Raj Kumar and was having 4 children out of the said wedlock. Her previous husband had left her and she got married to Ravinder with the consent of his family members and about 3 years ago and since then she is residing with Ravinder whereas the present petitioner, who is previous wife of Ravinder, raised a quarrel and went to her parents home on 29.10.2021 at about 9 P.M. The petitioner along her co-accused entered the house, the complainant was forcibly taken in a vehicle wherein one of the accused committed rape upon her and thereafter, the complainant saved herself by going towards the other end of the bridge and on reaching home she reported the matter to the Police.

6. The complainant has not alleged that her previous marriage was dissolved by way of a decree passed by the Court. She has only alleged that her previous husband had left her and she got married to Ravinder. This fact is not disputed that petitioner is the legally wedded wife of Ravinder

with whom the complainant alleges to have performed marriage and staying with him.

7. Keeping in view the aforesaid facts and circumstances and considering the fact that petitioner is a female; she is in custody; challan has been presented and investigation of the case is complete and conclusion of trial will take time, without expressing any opinion on the merits of the case, the application is allowed. The petitioner is ordered to be released on regular bail, subject to her furnishing adequate bonds/surety to the satisfaction of the trial Court/Chief Judicial Magistrate, concerned.

06.02.2024

Janki

**(HARPREET KAUR JEEWAN)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No