

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

220

CRM-M-60574-2023 (O&M)
Date of decision: 07.03.2024

Meenu ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Pranshul Dhull, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 0258 dated 04.07.2023, registered under Sections 323 and 506 of IPC and Sections 4, 6, 17 of the POCSO Act, 2012 [Sections 366A, 376(3), 376(2)(n) of IPC and Section 21 of the POCSO Act were added later on] at Police Station Kherki Daula, District Gurugram.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was initially registered under Sections 323 and 506 of IPC read with Sections 4, 6, 17 of the POCSO Act, 2012 on the basis of a complaint lodged by the 'S' (*name withheld*), who was uncle of the victim 'K' (*name withheld*), alleging that his brother who was the husband of present petitioner Meenu, had died about three years back. Meenu was living with her daughter i.e. the victim 'K' separately, whereas her two

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children were living with her uncle. The victim was presently studying in a Gurukul. On 03.07.2023, he along with the petitioner had gone to drop the victim at the Gurukul when on finding opportunity, the victim had told him that the accused Rajesh, who had been living with her mother i.e. the present petitioner, had forcibly committed rape upon her on 10.12.2022, 12.03.2023, 24.03.2023 and 16.06.2023, She also apprised the complainant that she had disclosed about this fact to the petitioner but instead of taking any action, she had extended beatings to her and had threatened to kill her, if the victim opened her mouth. The complainant further recorded that on 04.07.2023, he had gone back to the Gurukul along with his wife and had brought the victim to the police for the purpose of recording of her statement. The statement of the victim was also recorded by the police, who also supported the version of the complainant and further narrated that she was also ravished by one Jitender, who too was introduced to her by her mother and this fact was in the knowledge of her mother. Offences under Sections 366A, 376(3), 376(2)(n) of IPC and Section 21 of POCSO Act were added. The present petitioner was arrested on 06.07.2023. The co-accused were also arrested. The victim was medically examined. Her statement under Section 164 Cr.P.C. was recorded. After completion of necessary investigation and usual formalities, challan under Section 173 Cr.P.C. was filed as against the present petitioner and co-accused Jitender, who had also been arrested. As the accused Rajesh and one Shivam Kumar, who was also named as Manager of the hotel, where the victim had been taken for the purpose of committing rape upon her, could not be arrested. Presently, the petitioner and co-accused Jitender are facing trial for commission of aforesaid offences. She had moved an application for grant

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of regular bail before the trial Court but the same was dismissed, vide order dated 26.10.2023.

3. 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 is in custody since 06.07.2023. The investigation has now been completed. Challan has been presented. The trial is likely to take some time. She is a working woman, who leaves her house for performing her duties at 9 O' clock and comes back at 6 O' clock. She had got the prosecutrix admitted in Gurukul and used to go to drop her there. The victim had never disclosed her about incident that had happened to her. In fact, the victim was having affair with co-accused Jitender and had herself gone with him to OYO hotel. Investigation has completed. Trial is likely to take time and, therefore, it is urged that the petitioner deserves to be extended benefit of bail.

4. *Per contra*, learned State counsel has argued that there are serious and specific allegations against the petitioner, who was living with co-accused Rajesh and who not only abetted the commission of repeated acts of aggravated penetrative sexual assault as committed by him but also did not give information about the acts committed upon the minor victim to the police, thereby committing offences punishable under Sections 17 and 21 of POCSO Act and since she had abetted the commission of offences of rape/aggravated penetrative sexual assault upon her own daughter by the co-accused, therefore, she was also liable for abetment of offences punishable under Sections 4 and 6 of POCSO Act as committed against the victim. The victim is yet to be examined. There are chances of the petitioner's

intimidating the victim or tampering with evidence, if extended benefit of bail. Hence, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record.

6. The petitioner, who is real mother of the minor victim, is alleged to have abetted the commission of acts of rape/aggravated penetrative sexual assault upon her not only by the accused Rajesh, with whom she herself was staying, but by the co-accused Jitender also. The allegations against the petitioner are quite serious in nature. The apprehension as expressed by the respondent-State that the petitioner might intimidate the minor victim, are not unfounded. Keeping in view the gravity of allegations as levelled against the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, this Court is of the considered view that the petitioner does not deserve to be given concession of regular bail at this stage. Hence, the petition stands dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

07.03.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>