

CRM-M-64323-2023 (O&M)

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

2024:PHHC:114016



**CRM-M-64323-2023 (O&M)
DATE OF DECISION : 02.09.2024**

BALWINDER KAUR

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Mohit Sadana, Advocate for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

Mr. Dhiraj Jindal, Advocate for the complainant.

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HARPREET KAUR JEEWAN, J. (ORAL)

1. The instant petition has been filed by the petitioner under Section 439 of the Code of Criminal Procedure seeking regular bail in case FIR No. 167 dated 20.10.2022 under Sections 376(2)(n), 328, 346, 344, 120-B IPC registered at Police Station City 1, District Sangrur.

2. Status report by way of affidavit of Manoj Gors, PPS, Deputy Superintendent of Police, Sub Division, Sangrur has been taken on record. As per the custody certificate filed by the State, the petitioner has undergone 01 year, 09 months and 08 days of custody.

3. The complainant has alleged in the FIR that she had a matrimonial discord. As such, on 27.08.2022 she left her matrimonial home

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out of anger. While she was going on road, she met an auto-driver who offered to drop her at her sister's house. The driver of the said tempo allured her and took her to a house at Baguana, where the petitioner Balwinder Kaur was present. The petitioner is alleged to have mixed some intoxicants in her food. There are further allegations that the autodriver-husband of the petitioner and son of the petitioner used to commit rape upon the prosecutrix. The statement of the prosecutrix under Section 164 Cr.P.C. (Annexure R-1) was recorded. As per the status report, on 23.10.2022, the supplementary statement of the victim was recorded wherein she has disclosed that even Harjinder Singh and Gurpreet Singh, co-accused of the petitioner had committed rape upon her. The said persons were nominated as an accused. The medical examination of the victim was got conducted on 09.11.2022. The victim was found to be pregnant, as per her ultrasound examination report. The petitioner was arrested on 23.11.2022. It is further mentioned in the status report that the victim delivered a baby and blood sample of newly born child were sent to FSL for DNA examination. It is further contended that as per the DNA examination report dated 06.10.2023, Harjinder Singh @ Gagan, Gurpreet Singh @ Guri and Amandeep Singh are not the biological father of the baby of the victim.

4. I have heard the counsel for the parties and perused the relevant record.

5. Out of 22 PWs, 3 PWs have been given up and 7 PWs have been examined. The petitioner is a female, aged 52 years. The allegations are a matter of trial. As per the status report filed on behalf of the State, the DNA profile of the husband and son of the petitioner namely Harjinder Singh and Gurpreet Singh did not match with the baby of the prosecutrix.

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6. Keeping in view the allegations against the petitioner and her custody period of 01 year, 09 months and 08 days and also considering the fact that she is a female, aged 52 years and there is no other history against the petitioner, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to her furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court concerned.

7. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

8. Pending miscellaneous application(s), if any, shall stand disposed of.

02.09.2024

Janki

**(HARPREET KAUR JEEWAN)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No