

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-3861-2023
Date of decision: 29th February, 2024

Rajni

...Appellant(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vipul Aggarwal, Advocate for the appellant.
Mr. Neeraj Poswal, A.A.G., Haryana.

MANISHA BATRA, J (ORAL):-

The instant appeal has been filed under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short ‘the Act’) against the Order dated 25.12.2021 passed by Learned Additional Sessions Judge, Fast Track Court/Special Court, Gurugram whereby an application has been filed by the appellant for grant of regular bail under Section 439 of Cr.P.C. had been dismissed.

2. Brief fact of this case relevant for disposal of the present petition are that the aforementioned FIR was registered on 24.08.2021 on the basis of information received by the police regarding death of the girl child and about her dead body being kept in mortuary of Jagjeevan Ram Memorial Hospital, Jahangirpuri, New Delhi, the statement of father of the victim ‘P’ (name withheld) was recorded who alleged that his wife was working as a

house-helper at Narela. They were residing in a rented accommodation at Shivaji Colony, Narela. On 17.07.2021, his landlady Rajni Devi had told him that her sister-in-law had delivered a male child and as she was going to the house of her brother Parveen Verma at village Chokhar ki Dhani, Gurugram, therefore, she was taking the victim along with her and that she would stay at the house of her brother, who too had a daughter. The complainant permitted her to do so. Rajni took away his daughter 'P' to the house of her brother as well as her own children. He recorded that ever since on 17.07.2021, his daughter had been residing at the house of Parveen Verma. On 23.08.2021, at about 03.00 PM, his landlord Deepak informed him that the victim had died and her dead body was being brought for cremation and told him to be ready to perform her last rites. The complainant got suspicious about the cause of death of his daughter and he informed the police. Inquiries were made and it was revealed that the victim had been murdered by the accused Rajni, Sagar, Parveen Verma and other family members of accused Rajni. He prayed for taking action against the culprits. On his complaint, initially a case under Sections 302 read with Section 120-B of Indian Penal Code, 1860 (for brevity 'IPC') and Section 3 of SC/ST Act was registered. Investigation proceedings were initiated and inquest proceedings of post-mortem examination of dead body was conducted. A special investigating team (SIT) was also formed.

3. As per the allegations, the accused Parveen Verma was joined into investigation and thereafter, offences punishable under Section 376 of

IPC and Section 6 of POCSO Act were also added. He was formally arrested on 26.08.2021. He suffered disclosure statement admitting his involvement in the crime of committing rape and murdering the victim and got the place/site of crime demarcated. It was disclosed by him that on the intervening night of 22/23.08.2021, he had ravished the victim by putting a pillow on her mouth due to which she had died. He also got recovered two underwears, a vest, handkerchief, and pillow with cover thereof as well as his T-shirt. These articles were taken into custody by the police. The co-accused Sagar, Deepak and Ravinder were also joined into investigation. No incriminating evidence were found against accused Sagar. The appellant Rajni was joined the investigation and was formally arrested on 01.09.2021. She too suffered a disclosure statement. Offences punishable under Section 201 of IPC and Section 75 of Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'JJ Act') and Section 21 of POCSO Act, 2012 were also added. After completion of necessary investigation and usual formalities, challan under Section 173 of Cr.P.C was presented against the accused and presently, the appellant is facing trial for commission of offences punishable under Section 21 of POCSO Act, 2012, Section 75 of JJ Act and Section 3(2)(vi) of SC/ST Act, whereas the co-accused Parveen Verma is facing trial for commission of offences punishable under Section 302 and 201 of IPC, Section 6 of POCSO Act, Section 3(2)(vi) of SC/ST Act and Section 75 of JJ Act. The appellant had made an application for grant of bail before the Court of learned Additional Sessions Judge, Gurugram which

was dismissed vide impugned order dated 15.12.2021 and feeling aggrieved from the same, she has filed the present appeal.

4. It is submitted in the grounds of appeal and it has been argued by learned counsel for the appellant that the appellant was not named in the FIR. She had no role to play in the commission of offence of murder or rape of the victim. She herself had surrendered before the Court. She is in custody since 01.09.2021. The trial is likely to take time. She has been facing trial for commission of offences punishable under Section 21 of POCSO Act, 2012, Section 75 of Juvenile Justice Act and Section 3(2)(v) of SC/ST Act. The first two offences are punishable for maximum imprisonment upto three years. Her custodial interrogation is no more required. That the trial is likely to take time. No useful purpose would be served by keeping her in custody anymore. Therefore, it is argued that she deserves to be given concession of bail and the appeal filed by her deserves to be allowed.

5. The appellant had also moved an application for grant of regular bail by filing CRM-M-54608 of 2021 titled as 'Rajni Vs. State of Haryana', which is shown to have been dismissed vide order dated 12.09.2023. She is also shown to have moved another petition bearing CRM-M-60516 of 2023 but the same is shown to have been withdrawn by her with liberty to file an appeal.

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

7. A perusal of record reveals that the version of the prosecution is that it was in the month of July, 2021, that the present appellant who was landlady of the house wherein the family of the victim had been residing, had taken the victim along with herself to the house of her brother i.e. co-accused Parveen Verma whose wife was to deliver a child. It has also come on record that at the time when the dead body of the victim was being brought to the house of the complainant, the appellant had come along with the same. It is also revealed that she along with her husband she had tried best to get the dead body cremated without the post-mortem examination of the same being conducted. As per the post-mortem report, the victim child had died due to asphyxia consequent upon ante mortem manual smothering with positive evidence of vaginal and anal sexual assault. All the injuries on her person were ante mortem in nature and recent in duration. The appellant is the real sister of the co-accused Parveen Verma, who is alleged to have killed the victim child after ravishing her. She was staying the same house wherein the offence of rape and murder had taken place. It was her duty to inform the complainant about the real facts but instead of doing that, she preferred to insist him to get the dead body of the victim cremated at the earliest. The offences punishable under Section 21 of POCSO Act, 2012, Section 75 of JJ Act might be punishable for imprisonment not beyond a period of two years but she has been also charge-sheeted for commission of offence punishable under Section 3(2)(vi) of SC/ST Act which makes the accused liable for the same punishment which is provided for commission of an offence that was committed within knowledge of such person or while

having reason for him/her to believe that an offence had been committed under the provisions of IPC and such person caused evidence of commission of that offence to disappear with the intention of screening the offender from legal punishment. Apparently and evidently, the present appellant is shown to have tried to screen her brother i.e. co-accused Parveen Verma from the punishment for commission of offences of murder and aggravated penetrative sexual assault of the victim child. As such, I am of the opinion that she does not deserve to be given concession of bail. The learned trial Court had passed a well reasoned order and no ground for interfering in the same has been made out. Accordingly, finding no ground to allow the appeal, the same is dismissed.

[MANISHA BATRA]
JUDGE

29th February, 2024
Parveen Sharma

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No