

PBRO010005632024



Presented on : 31-01-2024
Registered on : 31-01-2024
Decided on : 22-02-2024
Duration : 0 years, 0 months, 22 days

**IN THE COURT OF RAMESH KUMARI, (UID No.PB0039)
SESSIONS JUDGE, RUPNAGAR.**

Bail Application No.159 of 31.01.2024
Date of Order : 22.02.2024

State of Punjab

Versus

Anu aged about 35 years wife of Sanjay, resident of village Manikpur Sariah, District Motihari (Bihar) currently residing at Mohalla Ataari Wala, Sri Anandpur Sahib, Police Station Sri Anandpur Sahib, District Rupnagar.

....Applicant/accused.

Bail application under Section 439 Cr.P.C.

FIR No.118 dated 29.09.2023.

Under Sections : 363, 366, 376, 376(2)(n), 120-B IPC
& 6 of POCSO Act.

Police Station : Sri Anandpur Sahib.

O-O-O

Present: Sh. Amandeep Saini Kotla, Advocate, learned Deputy Chief LADC for the applicant/accused.
Shri Gurpreet Singh, learned Additional Public Prosecutor for the State.
Sh. Sharanjeet Singh Rattan, Advocate learned counsel for complainant.

ORDER

1. The above named applicant/accused has filed this application under Section 439 Cr.P.C. for the grant of regular bail in case No.118 dated 20.09.2023 under section 363, 366, 376, 376(2)(n), 120-B IPC & 6 of POCSO Act, Police Station, Sri Anandpur Sahib.

2. Notice of the bail application was issued to the State and main challan case file has been got put up.

FACTS OF FIR.

3. The facts as contained in the FIR are that on 29.09.2023 SI Harwinder Kaur along with PHG Jashandeep Kaur and PHG Gurmeet Singh was present in the Police Post, Sri Anandpur Sahib then complainant/prosecutrix (identity withheld and hereinafter referred to as 'X') alongwith her father came there and she got her statement recorded with SI Harwinder Kaur to the effect that she is resident of xxxx, Police Station Shahbad, District Rampur (U.P.) at present Mohalla xxxx, Sri Anandpur Sahib, District Rupnagar. She studies in 10th standard at S.D. High School, Majara. About two months ago, she came to know Guddu son of Babu Ram, resident of Pirthipurva, Police Station Nigasan, District Lakhimpur (U.P.) who worked in *Kar Sewa* of Bhuri Wale at Sri Anandpur Sahib. Whenever she used to go to school then Guddu came to meet on the way. On 17.08.2023, Guddu gave Rs.500/- to her as fare and pocket money and said that he has to perform marriage with her and she should come Jalandhar next day. On asking of Guddu, she went to

Jalandhar by bus on 18.08.2023, but Guddu did not marry her, rather he took her to Pathankot in some village the name of which she did not know. Guddu took a room on rent there and he kept her with him there. Guddu made physical relations with her many times without her consent. She even objected for the same. When she was objecting such deeds of Guddu, he used to beat her. She somehow managed to escape from Guddu and came to her parents at Sri Anandpur Sahib. The 'X' requested to take legal action against Guddu. On the basis of aforesaid statement of 'X' the FIR was registered against accused Guddu under Section 363, 366, 376, 376(2)(n), 120-B IPC & 6 of POCSO Act.

POLICE INVESTIGATION.

4. During the course of investigation site plan of the place of occurrence was prepared. Record with regard to date of birth of 'X' was obtained from the school. Medical examination of the 'X' was got conducted from the Civil Hospital, Sri Anandpur Sahib. On 29.9.2023 accused Guddu was arrested. Medical examination of the accused regarding potency was got conducted from the Civil Hospital, Sri Anandpur Sahib. On 30.9.2023 statement of the 'X' under section 164 Cr.P.C. was got recorded from the learned Illaqa Magistrate. On the basis of statement of 'X' recorded under section 164 Cr.P.C. as well as under section 161 Cr.P.C., applicant/accused Anu was nominated as accused in this case and ultimately, she was arrested in this case on 30.9.2023. Offence under section 120-B IPC was added. Mobile phones of the

accused as well as 'X' were taken into possession. After completion of investigation challan against accused was presented in the court.

ARGUMENTS OF LEARNED COUNSEL FOR APPLICANT/ACCUSED:

5. The learned counsel for the applicant/accused contended that the applicant/accused is innocent. She has not committed any offence. The applicant/accused has been falsely implicated in this case. The FIR was registered on the statement of 'X' which was recorded on 29.9.2023 by the police but the 'X' had not named the applicant/accused in her statement. No allegation is leveled in the statement and even the 'X' had not attributed any act to the applicant-accused. Later on in connivance with the parents of 'X', the police has nominated the present applicant/accused by concocting false story which was later on put forth by the 'X' in her statement under section 164 Cr.P.C. The applicant/accused has nothing to do in the present case and she is having no concern with the 'X' or co-accused Guddu. Nothing is to be recovered from the applicant/accused. She is in custody since 30.09.2023. Even, in the confessional statement of accused Guddu, the name of applicant/accused is not surfaced. As per statement of 'X', the occurrence committed with her at Pathankot and even on the date of occurrence, she did not met the applicant-accused at Sri Anandpur Sahib nor at any time at Pathankot. Even the allegations of section 120-B IPC are not proved against the applicant/accused throughout the report submitted by the police under section 173 Cr.P.C. The applicant/accused is not required for

the purpose of interrogation or investigation. The applicant/accused will abide by all the terms and conditions imposed by the court and vehemently prayed for release of the accused/applicant on regular bail by way of acceptance of her bail application.

ARGUMENTS OF LEARNED ADDITIONAL PUBLIC PROSECUTOR:

6. On the other hand the learned Additional Public Prosecutor contended that the allegations against the accused/applicant are serious in nature and so she is not entitled for the benefit of regular bail and prayed for dismissal of the bail application.

PREVIOUS ANTECEDENTS OF APPLICANT/ACCUSED:

7. SI Gurmukh Singh, No.909/R, Incharge, PP City Sri Anandpur Sahib has suffered statement in the court on 8.2.2024, that except the present FIR, no other criminal case is registered against the applicant/accused.

DISCUSSION:

8. As per prosecution case, co-accused Guddu enticed the minor 'X' from the lawful guardianship of her parents with intend to compel her to marry or forced her to illicit intercourse and committed aggravated penetrative sexual assault upon minor 'X' under pretext to marry. The prosecutrix/minor victim in her statement under Section 164 Cr.P.C. leveled allegations for the first time against present applicant/accused Anu that she used to take her from her house, for meeting with accused and she was not consenting party for that. Accused Guddu (co-accused)

also told her that he gave money to Anu and she helping him to entice minor victim to go with accused Guddu. The allegations against applicant/accused Anu are subject of trial. The statement of victim and her father is recorded as PW1 and PW2 respectively. Remaining prosecution witnesses are official witnesses and there is no likelihood of their being influenced by applicant/accused Anu. The testimony of PW Rekha listed at Sr.No.11 in the list of witnesses is not against accused/applicant Anu. It is only against co-accused Guddu regarding giving room on rent to Guddu and victim. The conclusion of trial is likely to take time. Therefore, without commenting upon merits of the case, it is a fit case for release of applicant/accused on regular bail.

CONCLUSION:

9. In view of above discussion the application filed by applicant/accused Anu for release on regular bail is allowed. The applicant/ accused is ordered to be released on bail on her furnishing bail bonds in the sum of Rs.50,000/- with one surety in the like amount to the satisfaction of this Court, subject to the conditions that :-

- (i) she will not leave the country without prior permission of court ;
- (ii) she will not influence prosecution witnesses in any manner ;
- (iii) she will appear before the learned court on each and every date of hearing except when exemption from personal appearance is obtained from the Trial Court/Officer on duty.

Any observation made herein shall have no bearing on merits of the case.

Copy of order be placed on the main challan case file. Bail application file be consigned to record room.

Pronounced in open Court.
Dated : 22.02.2024.

(Ramesh Kumari)
UID No.PB0039,
Sessions Judge,
Rupnagar.

Surinder Singh Walia

Dictated on : 22.02.2024.
Transcribed on :22.02.2024.
checked on : 22.02.2024.
Signed on : 22.02.2024.

(Ramesh Kumari)
UID No.PB0039,
Sessions Judge,
Rupnagar.

State Vs. Anu

Present: Sh. Amandeep Saini Kotla, Advocate, learned Deputy Chief LADC for the applicant/accused.
Shri Gurpreet Singh, learned Additional Public Prosecutor for the State.
Sh. Sharanjeet Singh Rattan, Advocate learned counsel for complainant.

Addl. Ahlmad put up main challan file. Arguments on the bail application heard. Vide my separate order of even date, the application has been allowed. Copy of order be placed on the record of main challan case file. Bail application file be consigned to the Record Room.

Pronounced in open Court.

Dated : 22.02.2024.

(Ramesh Kumari)
UID No.PB0039,
Sessions Judge,
Rupnagar.

Surinder Singh Walia