

Lovely vs State Of Haryana on 5 March, 2025

Neutral Citation No:=2025:PHHC:031445

CRM-M-61409-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-61409-2024

Reserved on: 27th February, 2025

Pronounced on: 5th March, 2025

Lovely

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Balkar Singh, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J :-

The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 398 dated 19.07.2022 registered under Sections 385 and 420 of IPC (Sections 388, 420, 120-B and 180 of IPC added later on) at Police Station Sadar Jind, District Jind.

2. As per the prosecution case, the present petitioner had lodged a case bearing FIR No. 548 of 2021 under Sections 354, 506 and 376 read with Section 511 of IPC and under the provisions of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Act, 1989') at Police Station Sonipat against ASI Satish, brother of the present complainant. The abovesaid Satish had been arrested in that case and 1 of 6 Neutral Citation No:=2025:PHHC:031445 CRM-M-61409-2024 2- was in custody. The complainant lodged the aforementioned FIR alleging that on 29.09.2021, one unknown person came to meet Manju Bala wife of Satish and offered to resolve the case as registered against the latter by meeting the husband of the present petitioner.

The family members of the complainant made a contact with accused Sunil who is husband of the petitioner on his mobile phone and thereafter, they met the petitioner and co- accused Sunil. Both of them raised demand of Rs. 50,00,000/- in order to settle the case registered against Satish. They also asked the complainant to arrange an affidavit for assuring that no action would be taken against them. After convening some meetings, it was settled that the complainant's family would give an amount of Rs. 32,50,000/- to the present petitioner and her husband and they would withdraw the case lodged against Satish. The petitioner was contacted through phone on 22.03.2022 in the presence of members of the complainant party and her family members and she assured to file a sworn affidavit for quashing the FIR against Satish on receipt of money.

3. As per the allegations, on 23.03.2022, an amount of Rs. 30,00,000/- was handed over to the accused persons by the complainant party and remaining amount of Rs. 2,50,000/- was given two days thereafter. The complainant alleged that his nephew had recorded the entire conversation that had taken place between the accused persons and his family members in the meanwhile. By alleging that the petitioner and co- accused had extorted money from them by pressurizing them, the complainant prayed for taking action in the matter.

4. After registration of FIR, investigation under Sections 485 and 2 of 6 Neutral Citation No:=2025:PHHC:031445 CRM-M-61409-2024 3- 470 of IPC, investigation proceedings were initiated. The accused- Subhash who is father-in-law of the petitioner joined investigation on 04.010.2022 and was arrested. He suffered disclosure statement admitting his involvement in the crime. The accused Sunil was arrested on 05.11.2022. He too suffered a disclosure statement. After completion of investigation, challan under Section 173(2) of Cr.P.C. was presented against them under Sections 385, 388 and 420 read with Section 120-B of IPC.

5. As per the allegations, further investigation of the case was transferred to DSP, Fatehabad. The petitioner was joined into investigation along with some other persons. Initially, her involvement in the commission of the aforementioned offences could not be established on conducting inquiry. However, further investigation was also conducted during the course of the same. The accused Vinod Kumar and Palla Ram were arrested. Challan was presented against them on completion of the investigation. The petitioner was joined into investigation on 20.08.2024 and was arrested on the same day. Her mobile phone was recovered. She too suffered disclosure statement admitting her involvement in the act of extracting money from the victim party. Investigation qua her stands concluded.

6. It is argued by learned counsel for the petitioner that she has been falsely implicated in this case. There is inordinate and unexplained delay in lodging of the FIR, which has rendered the prosecution story highly improbable. No role was attributed to her in the FIR. This case has been registered against her as a counter blast to the FIR lodged by her against the brother of the complainant. The complainant has not explained the source from where the amount of Rs. 32,50,000/- had been arranged by him. No 3 of 6 Neutral Citation No:=2025:PHHC:031445 CRM-M-61409-2024 4- money was handed over by the complainant or any other person to the petitioner. Infact, she is the victim. She is in custody since long. Trial is likely to take time. No recovery has been effected from her, neither the same is to be effected. The subject offences are triable by Magistrate. Her further

incarceration would not serve any useful purpose. She had sworn an affidavit on request of wife of Satish Kumar for not spoiling the future of her children. This affidavit was sworn in April, 2022 much before the lodging of the FIR. The ingredients for commission of offences punishable under Sections 420, 385 and 388 of IPC have not been attracted as against the petitioner at all. Trial will take time. There are no chances of her absconding. Therefore, it is urged that she deserves to be released on bail.

7. Status report has been filed by respondent-State. Learned Assistant Advocate General, Haryana has argued that there are serious and specific allegations against the petitioner as she along with her husband hatched a conspiracy to extort money from ASI Satish against whom a case for making attempt to commit rape had been got registered by her. The family members of the above named Satish had been contacted and were pressurized to give a sum of Rs. 32,50,000/- by putting them in fear that otherwise, she would record a statement in the Court as against the Satish. The conversation that had taken place between the members of the complainant and accused party, has been recorded and is part of the challan report. The same shows the complicity of the petitioner in the subject offences. There are chances of petitioner's intimidating the witnesses, if extended benefit of bail. Therefore, it is argued that the petition does not deserve to be allowed.

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8. Learned counsel for the parties were heard at considerable length by this Court besides going through the record carefully.

9. As per the allegations, the petitioner and her husband hatched a conspiracy to extract money from the family members of the complainant by assuring that she would withdraw the FIR lodged against the brother of the complainant. As per the prosecution case, she is also alleged to have derived monetary benefit by receiving a sum of Rs. 11,00,000/- out of the amount of Rs. 32,50,000/- which was allegedly given by the family of the complainant to her husband and herself. It is a question of debate as to whether, the ingredients of offences under Sections 420-B, 385 and 388 of IPC are attracted against the petitioner since the allegations as levelled in the FIR do not make a prima facie case for making any inducement by the petitioner to the complainant or his family members to part with any money or qua making extortion by her by putting the complainant or his family members in fear of an accusation.

10. The offences for which the petitioner has been booked are triable by Magistrate. She is in custody since 20.08.2024. No recovery is to be effected from her. Recovery of an amount of Rs. 19,00,000/- is stated to have been effected from her husband i.e. co-accused Sunil. There are allegations that the family members of the complainant had prepared some audio/video recording of the conversation, which had taken place between the parties with regard to settling the amount of money for the purpose of withdrawal of case filed by the petitioner. However, nothing specific has come in the reply filed by respondent to show that the petitioner was also part of said conversation. Keeping in view the period of incarceration of the 5 of 6 Neutral Citation No:=2025:PHHC:031445 CRM-M-61409-2024 6- petitioner and the above discussed facts and circumstances but without meaning to make any comment on the merits of the case, I am of the considered opinion that she deserves to be released on bail at this stage. Hence, the petition is allowed and the petitioner is ordered to be released on bail subject to her furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

11. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

[MANISHA BATRA] JUDGE 5th March, 2025 Parveen Sharma

1. Whether speaking/ reasoned : Yes / No

2. Whether reportable : Yes / No 6 of 6