

**HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU
(THROUGH VIRTUAL MODE)**

Bail App No. 204/2020
CrIM No. 1201/2020

Reserved on:- 29.12.2020
Pronounced on:- 31.12.2020

Usha Devi

.....Petitioner(s)

Through :- Mr. Aman Bhagotra, Advocate.

V/s

UT of J&K

.....Respondent(s)

Through :- Mr. F.A Natnoo, AAG

Coram: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1. Through the medium of the instant petition, the petitioner is seeking anticipatory bail in F.I.R No. 13/2020 for offence under Section 313 IPC registered with Police Station, Women Cell, Doda.
2. The petitioner has contended that the F.I.R in question is absolutely false and concocted. According to the petitioner, even as per contents of the F.I.R, no offence is made out against her because there is no allegation that she had forcibly administered any medicine to the victim. It is further contended that the order of rejection of anticipatory bail application of the petitioner by the learned Principal Sessions Judge, Bhandarwah is not in accordance with law.
3. The respondent has resisted the application by filing reply thereto. In its reply, the respondent has narrated that on 08.06.2020, statement of victim girl was recorded by the police in which, she had alleged that about 2-3 months back, she had been sexually assaulted, regarding which, her brother had filed a

report with Police Station, Doda. She further stated that as a result of this rape, she had conceived and was about 02 months pregnant. According to the girl, the petitioner herein administered three tablets to her for the purpose of getting rid of the pregnancy without explaining to her the consequences thereof. The girl is stated to have consumed the tablets as a result of which, she suffered profuse bleeding, whereafter, the petitioner took her to hospital at Bhaderwah. After the treatment, the girl was discharged from the hospital whereafter she made a statement before the police resulting in registration of the instant F.I.R. According to the respondent, after investigation of the case, offence under Section 313 IPC stands established against the petitioner. The investigation of the case is stated to be in progress.

4. I have heard learned counsel for the parties and perused the record of the case.

5. It has been vehemently contended by learned counsel for the petitioner that even if statement of the victim girl is believed to be true, still then, no offence is made out against the petitioner for the reason that the petitioner had, as per the statement of victim, administered medicines to her under a bonafide intention so that the victim, an unmarried girl, could get rid of her unwanted pregnancy. According to the learned counsel, it is not the case of the victim girl that medicines were administered to her without her consent. Per contra , learned counsel for the respondent, has contended that the victim girl was minor, as such, her consent was immaterial.

6. So far as the stage of investigation is concerned, the case is under investigation for the last about 06 months. The statements of witnesses have been recorded and no recovery is to be effected from the petitioner. Despite the petitioner being without an order of protection from any court for the last six

months, the respondent has not effected her arrest. From this, it can be inferred that custody of the petitioner in connection with the investigation of the case may not be required by the investigating agency. Although learned counsel for the respondents submits that the petitioner is absconding, yet there is nothing on record to show as to what efforts, the investigating agency has made to take her into custody and it has not been shown to this Court as to for what purpose, the custody of the petitioner is needed.

7. Apart from the above, the petitioner is a lady and as such, entitled to a lenient view in the matter of consideration of her bail application.

8. Having regard to the aforesaid circumstances, the petition is allowed and the petitioner is admitted to anticipatory bail and it is directed that in the event of her arrest in F.I.R No. 13/2020, she shall be enlarged on bail subject to the following conditions:-

1. That she shall execute personal bond with one surety in the amount of Rs. 50,000/- each to the satisfaction of the concerned I/O.
2. That she shall cooperate with the Investigating Agency and shall not tamper with the prosecution witnesses.
3. That she shall not leave the limits of Union Territory of Jammu and Kashmir without the permission of the concerned I/O.
4. That in case she fails to comply with any of the aforesaid conditions, the concession of bail shall stand withdrawn.

The petition stands disposed of.

(SANJAY DHAR)
JUDGE

Jammu
31.12.2020
Tarun

Whether the order is speaking? Yes
Whether the order is reportable? Yes/No