

CRM-M-1707-2014

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In the High Court of Punjab and Haryana at Chandigarh.

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Date of Decision: 31.08.2015

Varinder Kumar and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. S.K. Arya, Advocate,
for the petitioners.

Mr. J.S. Sekhon AAG, Punjab.

None for the complainant.

SABINA, J.

Petitioners have filed this petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in FIR No.81 dated 19.08.2013, under Sections 376, 342 and 506 of the Indian Penal Code, 1860 ('IPC' for short) registered at Police Station Sadar, District Kapurthala (Punjab).

Prosecution story as per the FIR, in brief, is that the complainant got married to Sukhwinder Singh on 24.02.2011. However, out of the said wedlock, no child was born. Husband of the complainant had gone to Italy and had returned a

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month before the occurrence. On 03.08.2013, complainant was told by her husband to come on the road alongwith money so that the currency notes could be got exchanged from Jalandhar City. Complainant took 1500 Euro and ₹1,75,000/- with her and was waiting on the road. At that time, complainant was also wearing gold ornaments. In the meantime, petitioners came in a car alongwith Priya and Jaswinder Kaur. Jaswinder Kaur caught hold of the complainant from her arms and pulled her in the car. Complainant became unconscious as she was made to smell some intoxicant substance. The accused took away 1500 Euros and ₹1,75,000/- and the gold ornaments worn by the complainant from her. Complainant was threatened that in case she narrated the occurrence to her husband then her illicit relations with accused Varinder Singh would be disclosed to him. Due to this reason, petitioners raped the complainant from 03.08.2013 to 17.08.2013. Complainant was dropped at bus-stand Hoshiarpur by the petitioners.

Learned counsel for the petitioner has submitted that in fact petitioner Varinder Kumar had been arrested in FIR No.44 dated 16.04.2011, under Section 392, IPC, registered at Police Station Sadar Hoshiarpur on 03.08.2013. Therefore, petitioner Varinder Kumar could not have committed the alleged offence of rape from 03.08.2013 to

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17.08.2013. Thus, the petitioners have been falsely involved in this case.

Learned State counsel, on the other hand, has opposed the petition.

In the present case, petitioners are in custody for the last about two years. Challan has already been presented in the Court and prosecution evidence is being recorded. Annexure P-4, is the arrest memo of petitioner No.1, Varinder Kumar dated 03.08.2013. Thus on 03.08.2015, petitioner No.1 was already in police custody in another case. In view of the said fact, the allegations of rape levelled against petitioner No.1 from 03.08.2013 to 17.08.2013 prima facie stand belied.

Hence, it would be just and expedient to order the release of the petitioners on bail. Accordingly, this petition is allowed petitioners be admitted to bail subject to the satisfaction of Chief Judicial Magistrate, Kapurthala.

However, anything observed above, will have no bearing on the merits of the case.

August 31, 2015
kapil

(SABINA)
JUDGE