

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-18834-2015

Date of Decision: September 7, 2015

Rahul

...Petitioner

Versus

State of U.T. Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. L.S. Sidhu, Advocate,
for the petitioner.

Mr. A.S. Sullar, Advocate,
for the respondent-U.T. Chandigarh.

1. *Whether Reporters of local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

NARESH KUMAR SANGHI, J (Oral)

Prayer in this petition, filed under Section 439, Cr.P.C., is for grant of bail to the petitioner, Rahul, son of Munna Ram, resident of House No. 2169, Sector 24, Chandigarh, who has been booked for having committed the offences punishable under Sections 377 read with Section 511 and 506, IPC, and Section 18 of the Protection of Children against Sexual Offences Act, 2012, in a case arising out of FIR No. 93, dated 17.3.2015, registered at Police Station, Sector 17, Chandigarh.

Learned counsel contends that even if whole case of the

prosecution is accepted in its entirety, even then the ingredients of the offence punishable under Section 377 read with Section 511, IPC, for attempt to commit sodomy would be lacking in the present case. He further submits that co-accused of the petitioner has been granted bail by learned Principal Magistrate, Juvenile Justice Board, Chandigarh. It has also been contended that the petitioner is neither required nor involved in any other case.

Learned counsel for the State submits that the victim had narrated that the petitioner with his co-accused took him (victim) to a park and stripped-off their respective pants and asked the victim to fondle their private parts and in the meantime one person appeared in the park and the police was informed.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

The verbatim statement of the victim recorded under Section 164, Cr.P.C. is as follows:-

“My neighbour Shyam took me to jungle on his motor cycle near Sector 23 Park. One more boy Rahul was on the bike. They had both stripped down their pants and asked me to take their private parts. In the meanwhile one uncle came and rescued me and took me to chowki. Parents of Shyam and Rahul come to my house and threaten me. While I was with Shyam and Rahul, they

threatened me that they would hit me with a stone and put me in a sack.”

After perusing the above statement suffered by the victim, this Court is of the considered opinion that applicability of the offence of attempt to commit sodomy by the petitioner would be a moot point during trial. The allegations with regard to intimidation are against the parents of the petitioner.

Without discussing much on the merits of the case, lest it may prejudice either party, the present petition is allowed. The petitioner, Rahul, son of Munna Ram, resident of House No. 2169, Sector 24, Chandigarh, is ordered to be released on bail during pendency of the trial of the present case subject to his furnishing bail bonds to the satisfaction of learned Trial Court.

(NARESH KUMAR SANGHI)
JUDGE

September 7, 2015
Pkapoor