

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM No.M-20075 OF 2015 (O&M)
DATE OF DECISION : 3rd JULY, 2015

Sarabjeet @ Sabhi

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE SURINDER GUPTA

* * * *

Present : Mr. Manish Dadwal, Advocate for the petitioners.

Mr. Amritpal Singh Gill, Assistant Advocate General, Punjab.

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SURINDER GUPTA, J. (ORAL)

This petition has been filed for grant of anticipatory bail to the petitioners in case bearing FIR No.28 dated 26.03.2015 registered at Police Station City Hariana, District Hoshiarpur for offences punishable under Sections 363, 366-A, 376 read with Section 120-B IPC.

Heard.

The FIR in this case was registered on the statement of mother of the prosecutrix wherein she stated that Karan son of Mohan Lal was teasing his daughter and the matter was reported to his parents. On 23.03.2015 when she returned from the house of her mother at about 7.00pm and found that the prosecutrix was not present at home, she enquired about the prosecutrix from her younger daughter, who informed that the prosecutrix has left the house at about 1.00pm on that day. Later on she came to know that the prosecutrix was at the house of Mohan Lal and she reached there at about 9.30pm. At that time her daughter

(prosecutrix) along with Karan, Aju both sons of Mohan Lal and wife of Aju namely Neelam were present, the complainant asked her daughter (prosecutrix) to return home at which all the four persons told her that they will leave the prosecutrix at about 12/1.00 pm. The complainant returned but her daughter was not sent to her home by the aforesaid persons.

On next day i.e. 24.03.2015 mother-in-law of the complainant again went to the house of Mohan Lal and asked him to send the prosecutrix with them at which the aforesaid persons told her that the prosecutrix has affair with Karan and she is to be married with him and refused to send the prosecutrix with mother-in-law of the complainant. Thereafter, the complainant kept on visiting the house of Mohan Lal several times till the FIR was registered on 26.03.2015 but was not allowed to meet prosecutrix.

Learned counsel for the petitioner submits that the petitioner is maternal uncle of Karan and has nothing to do with the dispute between the complainant and the family of Karan. During the period when the prosecutrix was missing, his house was mobbed by the complainant party and the matter was reported to the police on which the proceedings under Section 107/151 IPC were initiated. It was on this account that the prosecutrix in her statement under Section 164 Cr.P.C., which was recorded on 03.04.2015, has named the petitioner as the person who had taken her to the house of Karan and then from one place to another place on his motorcycle. No allegation of rape is levelled against the petitioner.

Learned State counsel has argued that in her statement under Section 164 Cr.P.C. the prosecutrix has specifically named the petitioner

and his role as facilitator for the main accused against whom the allegation of rape has been levelled by the prosecutrix.

In the FIR no role of the petitioner is mentioned or even indicated in the entire occurrence. The tone and tenor of the FIR shows that the prosecutrix was at the house of Mohan Lal till the registration of FIR and on the day of registration of FIR she was dropped at her home by the petitioner and brother of Karan namely Aju.

Keeping in view the above facts, but without commenting anything on merits of the case, the petition is allowed. The petitioner is directed to surrender before the police and join the investigation. In the event of his arrest being required he will be allowed bail on his furnishing bail bond till the presentation of challan to the satisfaction of arresting officer, subject to the following terms:

- (i) that the petitioner shall make himself available for interrogation by the police as and when required;
- (ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer;
- (iii) that the petitioner shall not leave India without the prior permission of the Court.
- (iv) that the petitioner will seek regular bail on the presentation of challan in Court.

3rd July, 2015
'raj'

(SURINDER GUPTA)
JUDGE