

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-21507 of 2015
Date of Decision : 23.07.2015

Sona Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

1. *Whether Reporters of the 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?*

Present: Mr. R.S. Rawat, Advocate
for the petitioner.

R.P. Nagrath, J.

The petitioner has prayed for grant of pre-arrest bail under Section 438 Cr.P.C. in FIR No. 192 dated 04.08.2014 for offences under Sections 376 and 506 of Indian Penal Code (IPC), registered at Police Station Sadar Fazilka, District Fazilka.

FIR was recorded by the prosecutrix who is 17 years old girl and studying in 10+2 at Government school. While other family members had gone for work that Sona Singh-petitioner entered their house from the backside. Finding the prosecutrix alone in the bedroom, Sona Singh-petitioner started doing indecent acts and forcibly put her on the cot and committed rape on her by removing her *salwar*. She was threatened to be killed in case the prosecutrix raises cries. The prosecutrix kept quite due to fear. Her parents came from the fields and opened the door but the accused fled away by pushing away her mother.

For saving dignity and honour of the family, parents of the prosecutrix gave information to *sarpanch* of the village who

promised that justice would be done. On 03.08.2014, a *panchayat* was held at the house of *sarpanch* but the prosecutrix and her family members were rebuked.

I have heard learned counsel for the petitioner and perused the paper-book.

It was vehemently contended by learned counsel for the petitioner that there is no medical evidence for suggesting any forcible act of sexual intercourse and under the circumstances only Section 354 IPC can be possibly attracted at this stage.

When FIR of such a serious incident is registered it is mandatory for the investigating agency to record statement of the prosecutrix before a Magistrate in terms of sub-Section 5-A of Section 164 Cr.P.C. Medical examination of the prosecutrix is also required. One of the ground taken in the instant petition was that the girl was having an affair with the petitioner, which cannot bring any support to the petitioner at this stage as the girl is below 18 years of age and with the amended provision defining the offence of rape under Section 375 IPC, the consent of a girl below 18 years of age is no consent in the eyes of law.

It was further alleged that parents of the prosecutrix and some other persons attacked the family of petitioner and gave injuries to all the family members for which medicolegal report of three persons with minor injuries have been attached. These MLRs are dated 03.08.2014 whereas the occurrence relating to offence of rape was committed on 02.08.2014. It was also the version in complaint that gathering was held in the village to discuss the issue in the house of *sarpanch* on 03.08.2014.

In view of the serious allegation contained in the FIR for attracting a heinous offence, this is not a fit case of extending extraordinary concession of pre-arrest bail to the petitioner.

Dismissed.

July 23, 2015
jk

(R.P. NAGRATH)
JUDGE