

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

CRM-M-24357-2015

Date of decision: 06.08.2015

Narveer @ Narvir and ors.

... Petitioners

Vs.

State of Haryana and anr.

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Aditya Sanghi, Advocate
for the petitioners.

Mr. Ashish Yadav, Addl. AG, Haryana.

RAMESHWAR SINGH MALIK, J. (ORAL)

Petitioners seek bail pending trial in FIR No.318 dated 04.09.2013 under Sections 366A, 376D, 368, 506, 120B of the Indian Penal Code ('IPC' for short) and Sections 4, 6, 13 of POSCO Act, registered at Police Station City Palwal, District Palwal.

Learned counsel for the petitioners refers to the deposition of PW3 at page 28 of the paper book, coupled with zimini No.4A dated 11.09.2013 referred in Annexure P-4 at page 37-38 of the paper book, to contend that all the three petitioners were found innocent during the course of investigation. There was a strong reason because of which the petitioners were found innocent and it was that old civil litigation which was pending between the fathers of both the parties. The fact regarding innocence of the petitioners was recorded by none else but Superintendent of Police, Palwal himself in the abovesaid zimini dated 11.09.2013. He also submits that the

offence under Section 376 IPC was, in any case, not alleged against any of the petitioners, at any point of time. Petitioners came to be summoned under Section 319 Cr.P.C. He prays for allowing the present petition.

On the other hand, learned counsel for the State, on instructions from ASI Parma Nand, Police Station City Palwal, District Palwal, submits that although abovesaid zimini No.4A dated 11.09.2013 was a matter of record, yet since the age of the prosecutrix was just 13 years, participation of the petitioners in the commission of heinous crime does not entitle them for bail pending trial. He prays for dismissal of the present petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that in the given fact situation of the case, noticed hereinabove, petitioners have been found entitled for bail pending trial. It is so said because it is a matter of record that offence under Section 376 IPC has not been alleged against any of the petitioners, at any point of time. Further, it was the Superintendent of Police, Palwal himself who found the petitioners innocent, vide his abovesaid zimini No.4A dated 11.09.2013. In such a situation, although the petitioners have been summoned under Section 319 Cr.P.C., yet it will be a debatable issue before the learned trial Court as to whether the petitioners have actually participated in the commission of crime or not.

In view of the above and without commenting anything further on merits at this stage, lest it should prejudice the rights of the either of the parties, present petition is allowed. Petitioners are directed to be released on

bail pending trial on their furnishing adequate bail bonds/surety bonds to the satisfaction of learned trial Court.

Disposed of, accordingly.

[RAMESHWAR SINGH MALIK]
JUDGE

06.08.2015
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