

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CRM-M-349-2015

Date of decision : 13.01.2015

Joginder Singh and another

... Petitioners

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr.Piyush Sharma, Advocate
for the petitioners.

REKHA MITTAL, J.

The petitioners pray for grant of pre-arrest bail in FIR No.54 dated 11.05.2014 registered in Police Station Kot-Ise-Khan, District Moga for offence punishable under Sections 376, 323 read with Section 34 of the Indian Penal Code.

Counsel for the petitioners inter alia contends that a false FIR has been registered against the petitioners who are related to the prosecutrix. It is argued that dispute between the parties has been settled as the prosecutrix and her mother realised that the victim was not subject to sexual assault at the hands of the petitioners. It is further argued that keeping in view the facts narrated in the Panchayatnama signed by the Sarpanch and Members of Panchayat of village Raowala that the petitioners have no concern with the incident, the petitioners may be allowed pre-arrest bail when otherwise they are ready to face proceedings in accordance with law.

I have heard counsel for the petitioners and gone through the

allegations set up in the First Information Report.

The instant FIR has been lodged at the behest of prosecutrix (name kept secret) daughter of Suba Singh, who stated her age to be 16 years. The father of the victim statedly passed away before her birth and the family members appears to be doing labour work. As per allegations, both the petitioners came to her house at about 6/7 in the evening on 10.05.2013 and taking advantage of her being alone in the house attacked her modesty and subject her to rape despite resistance and at that time Swaran Singh gagged her mouth. The prosecutrix made a statement while lying admitted in Civil Hospital, Moga. It is shocking that the police till date has not arrested the accused despite expiry of about two years since lodging of FIR. It further appears to the Court that the prosecutrix and her mother might have come under pressure of the Panchayat to compromise the matter with the accused and for that reason, the Panchayatnama was prepared by the Gram Panchayat on 24.02.2014.

Keeping in view gravity of allegations against the petitioners, I do not think it to be a fit case wherein the petitioners deserve concession of bail in anticipation of arrest. A copy of this order be sent to the Senior Superintendent of Police, Moga.

(REKHA MITTAL)
JUDGE

January 13, 2015.

Davinder Kumar