

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

CRM-M No. 9688 of 2015 (O&M)

Date of decision: 31.03.2015

Gobind Kumar

..... Petitioner.

Versus

State of Haryana

..... Respondent.

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present:- Ms. Sarika Gupta, Advocate, for the petitioner.

Mr. Chetan Sharma, AAG, Haryana, for the respondent.

NAVITA SINGH, J. (ORAL)

Reply filed by the State is taken on record.

FIR in the present case was registered on the statement of Phool Chand stating that one person, namely, Rahul had taken his daughter Sonia away. The case was registered under Section 365 of the Indian Penal Code (IPC for short), but later on offence under Section 376 IPC was added.

Counsel for the petitioner submits that in the FIR (Annexure P1), which is actually an application moved by Phool Chand to the police, it was mentioned that Sonia daughter of the complainant went missing and a request was made that she be searched.

However, State counsel submits that as per the reply filed today, in the statement made by Sonia under Section 164 of the Code of Criminal Procedure, she had named one Rahul who had taken her to

Shahranpur and raped her and for that reason Section 376 IPC was added in the charge-sheet.

On 06.12.2014, Sonia made a supplementary statement and stated that the boy who took her away was not Rahul, but his correct name was Gobind Kumar son of Megh Pal.

It was further mentioned in the reply that Sonia had identified the petitioner and, thereafter, he was arrested.

Counsel for the petitioner submits that in the statement made by Sonia before the Magistrate, she named only Rahul. In this Court, before another Bench on 16.03.2015, the complainant was present along with his daughter Sonia and the complainant stated that Gobind Kumar son of Megh Pal, who is the petitioner, was not the person against whom the FIR was lodged.

Sonia also suffered a statement to the effect that Rahul had lured her and taken her away. She had seen the petitioner for the first time in the bakshi khana of the Court at Jagadhri and said that he was not the person who had taken her away.

Affidavit of the complainant is also placed on record in which he stated that his daughter had seen petitioner Gobind Kumar for the first time in the bakshi khana and he was not the boy who had committed some wrong act with his daughter. It was categorically stated that Gobind Kumar was innocent.

The trial has yet not practically begun as the first date fixed for prosecution evidence is stated to be 05.05.2015.

In view of the facts mentioned above, there being doubt about

the identity of the person involved, request of the petitioner is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of Trial Court/Chief Judicial Magistrate, Yamuna Nagar at Jagadhri.

Nothing stated above to be construed as an expression on the merits of the case.

(NAVITA SINGH)
JUDGE

31.03.2015
Ramesh