

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

**Date of decision: 08.12.2016
CRM-M-34800-2016**

1.

Narender

.....Petitioner

Versus

State of Haryana

.....Respondent

2.

CRM-M-39836-2016

Sunil

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

**Present: Mr. Akshay Kumar Jindal, Advocate,
for the petitioner(s).**

Ms. Mahima Yashpal, AAG, Haryana.

**Mr. Manish Soni, Advocate,
for the complainant.**

Ritu Bahri, J.

By this common order, CRM-M-34800-2016 and CRM-M-39836-2016 shall be decided together, wherein prayer is for grant of anticipatory bail to the petitioner(s) in case FIR No.26 dated 18.03.2016, under Sections 128, 342, 366, 376-D, 506 read with Section 120-B IPC, registered at Women Police Station, District Rewari.

As per allegations set out in the aforesaid FIR, on 15.03.2016,

complainant-Sapna was going to Gurgaon from the Court in a bus via

Bahor. From Bahor, she sat in a cab for Dharuhera. All the passengers in the cab alighted at Banipur Chowk, Bawal at about 8.00 P.M. in the evening. At that time, there was no female passenger at the stand. Once, she had a conversation with constable Raj Kumar at Banipur Chowk. Therefore, she contacted the Traffic Police Post for getting help from Raj Kumar. One person namely, Pandit, who was sitting there allowed her to talk to Raj Kumar from his mobile. Raj Kumar came there in 15 minutes and gave her a cold drink. After having the cold drink, she started feeling drowsy. Thereafter, Raj Kumar made her to sit in his white coloured car bearing No.4009, along with *chhola-bhatura rehri* vendor, who was standing there and forcibly took her to his house and threatened with dire consequences. After drinking liquor in the house, he committed rape upon her against her wishes and locked her in a room. On 16.03.2016, Raj Kumar called his three accomplices with alcohol and all four persons had liquor while sitting in one room. Three persons were addressed as Sunil, Narender (Master Ji) and Neta Ji. They all started teasing the complainant with bad intention. She she resisted, Raj Kumar gave her fist blows and thereafter, one lady, who was being addressed as *Kamwali*, came there. They all injected three intoxicating injections in the left hand of the complainant by holding her hands and legs. Thereafter, all the four persons committed rape upon the complainant. On the same day, she made a phone call to her relative Naresh Yadav and her husband's friend Arun. However, she could not tell them anything due to fear. On getting a chance, she came out of the house and started running. On the way, she met an old man, who told her that the said place was Uttam Nagar, Rewari. At that time, she saw that Raj Kumar was chasing her in his car. She asked for help from two boys, who were coming

on a scooty, who took her to bus stand, Rewari through streets and told their names as Deepak and Lokesh. Those persons asked the complainant to make a call to her relatives. Upon this, she made a call to Arun and asked him to come to Rewari. Thereafter, she along with Arun came to Women Police Station, Rewari reported the matter to the police. In this background, the FIR was registered.

Learned counsel for the petitioners contends that a perusal of MLR (Annexure P-1A) does not suggest the possibility of sexual intercourse. No pricking was reported by the doctor in the MLR. He further contended that Narender-petitioner is working as teacher in the Haryana Education Department and from 14.03.2016 to 17.03.2016, he had an exam duty at GBS Gujar Majri along with one lady teacher Sapna. As per certificate (Annexure P-3) given by the school, he was on duty. This fact can be verified from the attendance register (Annexure P-4). The present FIR had been got registered to extract money from the petitioner(s). Sapna-complainant had strained relations with her husband and divorce proceedings are going on between the complainant and her husband. She had made attempts to extract money from her husband by leveling similar allegations of rape against him. In this regard, Smt. Bala Devi (mother of complainant, Smt. Bahuti Devi (aunt of complainant) and Sh. Satish Kumar (father of complainant) have given their affidavits (Annexure P-5 Colly.). Even wife of Naresh has made a complaint in Woman Police Station, Gurgaon against her husband alleging that he had illicit relations with one lady namely Sapna. Virender Singh, husband of present complainant also made a complaint that she had run away with one Pardeep Thekedar. Sub Divisional Magistrate, Munduwar, Rajasthan has issued warrants of search

under Section 97 Cr.P.C. against Pardeep Thekedar. Thereafter, when Sapna was recovered, she made a statement that nobody was involved in her going away from the house and on account of matrimonial discord with her husband, she had gone to the house of her relative. Vide order dated 18.10.2016 passed by this Court, a direction was given to the State to verify the contents of affidavits (Annexure P-5 Colly.).

Learned State counsel has placed on record reply (in CRM-M-34800-2016) in the shape of affidavit of Deputy Superintendent of Police, Rewari. The same is taken on record. As per this reply, initially in her complaint, the complainant had given the names of Raj Kumar, Narender and Sunil. Subsequently, the names of two accused Govind and Bansi Singh cropped up in the disclosure statement of main accused Raj Kumar. The alleged car, in which Raj Kumar had taken the victim, has been recovered from him. During investigation carried out by Smt. Umesh Devi, Inspector, SHO, it was found that on 15.03.2016, the victim was forcibly taken by accused Raj Kumar to his house, situated in Uttam Nagar, Rewari. On 16.03.2016, he called his three accomplices and thereafter, all four namely Sunil, Narender, Raj Kumar and one called as Neta Ji had committed rape upon the victim after taking liquor. Statement of victim-Sapna was got recorded under Section 164 Cr.P.C. on 19.03.2016. She was also medically examined at Government Hospital, Rewari on 18.03.2016. Medical examination of the victim clearly suggest sexual intercourse and report of DNA is still awaited. During the course of investigation, Raj Kumar has specifically named accused Narender (petitioner), who has actively participated in the crime. Narender is working as teacher in Government Middle School, Ibrahimpur and was deputed for examination duty from

14.03.2016 to 17.03.2016 in Government Primary School, Gujjar Majri. As per duty roster, he was on duty from 8.00 A.M. to 11.00 A.M., whereas the occurrence had taken place from 3.00 P.M. to 4.00 P.M. on 16.03.2016. The place of occurrence is at a distance of about 9/10 K.M. From the place of his duty i.e. village Gujjar Majri. As per call details of the mobile phone of Sapna, she had made calls from her mobile to Naresh on 16.11.2016 and 17.11.2016. It has been further stated that divorce proceedings between the complainant and her husband have been withdrawn by the parties due to compromise. During investigation, statements of Manpal Yadav and Krishan Kumar under Section 161 Cr.P.C. were recorded, wherein they have disclosed that one Naresh, working as ASI in Haryana Police, had made a request to Krishan Kumar (house owner) for letting out accommodation for Sapna. Thereafter, Naresh and Sapna occupied the rented accommodation for some time, but the same was vacated in the month of April, 2016. A complaint was filed by Smt. Nisha wife of Naresh against her husband at Police Station, Sector 29, Gurgaon, wherein she had named Sapna as the lady who was in relationship with Naresh. Affidavits given by Sapna's mother Bala, father Satish and aunt Bahuta Devi have been verified and the same have been found to be true.

Learned State counsel has further informed that after presentation of challan against accused Raj Kumar, the trial is proceeding and the petitioner(s) have not been associated in the investigation, as they had absconded.

The nature of relationship of complainant with Naresh and the complaint made by Nisha wife of Naresh, would be subject matter of different proceedings. However, in the present case, after registration of the

FIR and recording of disclosure statement of Raj Kumar, petitioners- Narender and Sunil have been specifically named along with Govind and Bansi Singh. Since the name of Govind was not found in the complaint, he has been granted anticipatory bail on 07.06.2016. There is no delay in lodging of the FIR as well as getting the complainant medically examined. The offence(s) alleged to have been committed by the petitioner(s) are of serious nature.

Keeping in view the gravity and seriousness of the offence, no case of grant of anticipatory bail is made out.

Resultantly, both the petitions i.e. CRM-M-34800-2016 and CRM-M-39836-2016 are dismissed.

08.12.2016
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No