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

Sr. No.235

**Criminal Writ Petition No.34 of 2016
DECIDED ON: May 19, 2016**

RANJIT KAUR

..PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

- 1. Whether Reporters of 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. L.M. Gulati, Advocate,
for the petitioner.

Mr. A.S. Sidhu, Assistant Advocate General, Punjab.

JASPAL SINGH, J. (ORAL)

This is a petition preferred under Article 226 of the Constitution of India by Ranjit Kaur-petitioner seeking issuance of a writ, order or direction in the nature of habeas corpus to release the detenue namely Tamana her daughter from the illegal custody of respondent No.4- Gurdev Singh.

Pursuant to notice of motion, reply has been filed by learned State counsel in the shape of affidavit of Gurpreet Singh, PPS, Assistant

Commissioner of Police, West, Amritsar City on behalf of respondents No.1 & 2. Paragraphs 5 to 7 of the reply submitted by learned State counsel on behalf of respondents No.1 & 2 are relevant for the disposal of instant petition, which reads as under:

“5. That in compliance to the order dated 08.01.2016 the Investigating Officer raided various places on various dates in order to trace out the detenue Tamana. On 13.12.2015, 14.12.2015, 15.12.2015, 14.01.2016, 21.01.2016, 31.01.2016 and 05.02.2016, the investigating officer raided the house of the respondent No.4 namely Gurdev Singh and his relatives. Meanwhile, the detenue (Tamana) managed to escape from the illegal confinement of respondent No.4. Thereafter, on 13.02.2016 detenue (Tamana) herself appeared before the Police Officials at the Police Station. On 14.02.2016, she was produced before Ld. the Duty Magistrate Smt. Harsimrat Kaur, JMIC, Amritsar. The Ld Duty Magistrate directed the concerned Police Officials to hand over the custody of the detenue (Tamana) to her mother (Ranjit Kaur) and the statement of detenue (Tamana) under Section 164 Cr.P.C. was recorded and the girl Tamana was handed to her mother (Ranjit Kaur). In her statement, she has categorically stated that she is running a beauty palour. Respondent no 4 (Gurdev Singh) is her relative (Jija). On 09.12.2015 Respondent no 4 came to her beauty parlour and induced her to go for outing to Beas on the pretext that he has already took permission from her parents for the same. Thereafter, respondent No.4 took her to Jandiala and compelled her for sexual intercourse. Then, next day, she was taken to Beas, where Respondent No.4 forcibly had sexual intercourse with her without her consent. Then, respondent No.4 got solemnized marriage with her in Panchkula. The respondent No.4 after showing himself as unmarried, got solemnized court marriage with her. Then, started staying with her in rented accommodation. But, anyhow on 13.02.2016 she managed to escape from the illegal confinement of Respondent No.4.

6. *That on 14.02.2016 the detenue (Tamana) was medically examined in the Govt. Hospital-cum-Medical College, CH Amritsar by Medical Officer (Dr. Nisha Bhagat). Dr. Nisha Bhagat has categorically opined in her medical report that possibility of sexual intercourse cannot be ruled out as per clinical examination, final report will be given after the report of chemical examination.*

7. *That later on, on the basis of aforesaid facts and statement of detenue (Tamana), the concerned Police Officials added offences under Section 376, 494 IPC and 3/4 of Protection of Children from Sexual Offences in the aforesaid FIR No.285 dated 12.12.2015 registered at Police Station, Cantonment, District Amritsar, against the respondent No.4 (Gurdev Singh)."*

A perusal of the aforesaid paragraphs clearly transpires that after securing the custody of detenue namely Tamana, her statement was got recorded under Section 164 Cr.P.C. before the learned Illaqa Magistrate and keeping in view her statement, offences under Section 376, 494 IPC as well as 3/4 of Protection of Children from Sexual Offences Act, 2012 have been added in FIR No.285, dated December 12, 2015, registered at Police Station Cantonment, District Amritsar against respondent No.4-Gurdev Singh.

As far as calling of status report vide order dated January 08, 2016 passed by this Court is concerned, it has been pointed out by learned State counsel Mr. J.S. Sekhon, AAG, Punjab, that strenuous efforts are being made to arrest respondent No.4 but he is evading his service. However, at this juncture, learned counsel for the petitioner submits that respondent No.4-Gurdev Singh is openly moving in the public and is residing at his house, and further, that he is not being arrested as he has got close relations with respondent No.3-ASI Narinder Kumar, Incharge Police

Chowki, Guntala, Police Station Cantonment, District Amritsar.

In view of facts narrated above, instant petition has rendered infructuous and is disposed of with a direction to respondent No.2- Commissioner of Police, Amritsar to depute some other senior officer of the police instead of ASI Narinder Kumar, to conduct the investigation of this case, to arrest respondent No.4-Gurdev Singh as well as initiate further necessary action. It is expected that Commissioner of Police, Amritsar to do the needful within the period of two months from the date of receipt of certified copy of this order.

May 19, 2016
Ankur

(JASPAL SINGH)
JUDGE