

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

1. CRM-M-31334-2017

Abdul Hamid

..... Petitioner

Versus

State of Punjab

..... Respondent

2. CRM-M-37449-2017

Sakib @ Mohd. Saqib

..... Petitioner

Versus

State of Punjab

..... Respondent

Date of decision : 31.10.2017

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.A.S. Kler, Advocate
for the petitioner in CRM-M-31334-2017.

Mr.Sapan Dhir, Advocate
for the petitioner in CRM-M-37449-2017.

Mr.Kirat Singh Sidhu, DAG, Punjab.

Mr.Amaninder Preet, Advocate
for the complainant.

H.S. MADAAN, J.

Vide this order, I shall dispose of two petitions for grant of pre-arrest bail i.e. **CRM-M-31334-2017** filed by petitioner Abdul Hamid and **CRM-M-37449-2017** filed by petitioner Sakib @ Mohd. Saqib, both of

them being accused in FIR No.85 dated 10.8.2017 for the offences under Sections 377/506 IPC and Sections 3 & 4 of Protection of Children from Sexual Offences Act, 2012, registered with Police Station City-I, Malerkotla, District Sangrur.

Briefly stated, facts of the case as per prosecution story are that criminal machinery in this case was set into motion by complainant Dilshad Ahmed son of Rehmat Ali, resident of Kamboj Street, College Road, Malerkotla, aged about 43 years, who in his statement recorded with the police on 10.8.2017 stated that he has got two sons, elder one Parvej Dilshad, aged about 15 years and younger one Umar Dilshad, aged about 13 years; that Parvej Dilshad is student of Class 10th in Tara Convent School situated at Adam Road, Malerkotla; that he had gone to Chandigarh to attend badminton tournament in February, 2017 along with their neighbour Saqib son of Abdul Hamid, resident of that very area, who had also gone to participate in the tournament; that Parvej Dilshad returned home after several days. According to the complainant, he found that money was missing from his house; that he has got big business of Embroidery etc. involving big money transactions, as such he could not notice some money being taken away but since it became a regular feature, then he make inquiry and he came to know that his son Parvej Dilshad was taking away money; that he inquired from his said son, who started crying and informed that when he had gone to play tournament at Chandigarh and when he was sleeping, then Saqib had put his penis in his mouth and clicked photographs with mobile phone; that thereafter, Saqib has been threatening him that in

case he told about it to any body, then he would upload those photographs on the internet and from that time Saqib is giving threats to him and extracting money from him, which he had been giving to Saqib after stealing that from home. According to the complainant then he talked to Saqib's father Abdul Hamid and gave complaint at Police Station City, Malerkotla; that Abdul Hamid and his relatives starting pressurising them to withdraw the complaint threatening that they would teach them a lesson and on 8.8.2017 at about 8:00 p.m., Saqib along with relatives came in front of their house in the street, abused them and manhandled them. Thereafter, he lodged report with the police. It was informed that Saqib had extracted a sum of Rs.5 lacs from Parvej Dilshad by blackmailing him. Formal FIR was registered.

Apprehending their arrest in this case, petitioners/accused had approached the Court of Sessions seeking grant of pre-arrest bail but their such application was dismissed by the Court learned Sessions Judge, Sangrur vide order dated 19.8.2017. As such, they have approached this Court asking for similar relief by way of filing separate petitions.

Notice of the petitions was given to the respondents, who put in appearance through counsel.

I have heard learned counsel for the petitioners and learned State counsel as also learned counsel for the complainant besides going through the record.

As far as petition for pre-arrest bail filed by Abdul Hamid i.e.

CRM-M-31334-2017 is concerned, the allegations against him are of

putting pressure on the complainant giving threats, using filthy language etc. The said petitioner was granted interim bail and he has since joined the investigation. No recovery is to be got effected from him, in that way his custodial interrogation is not found to be necessary, therefore, **CRM-M-31334-2017** filed by petitioner Abdul Hamid deserves to be accepted. Therefore, the interim bail granted to him vide order dated 5.9.2017 is made absolute subject to his fulfilling conditions under Section 438(2) Cr.P.C.

CRM-M-31334-2017 is allowed accordingly.

Whereas regarding petitioner/accused Sakib @ Mohd. Saqib, the allegations against him are of very serious and grave. Not only he did perform a perverse sexual act with a young innocent boy of 15 years but then clicked photographs with mobile phone and then started blackmailing him fleecing a sum of Rs.5 lacs from him threatening that otherwise he would put those photographs on internet. Though learned counsel for the petitioner come up with a plea that petitioner is a juvenile placing on file copy of his birth certificate showing his date of birth to be 25.1.2001 along with copy of Central Board of School Education showing that very date of birth besides copy of Aadhar Card reflecting that date of birth. However, learned counsel for the complainant has also placed on file copy of his birth certificate showing date of birth to be 22.1.1999 along with copy of certificate from Islamia Sr. Secondary School to the effect that date of birth of Mohd. Saqib is 22.1.1999, besides an Urdu entry regarding admission in the school showing that very date of birth. As such, the question as to whether the petitioner is a juvenile or not is to be decided by the Court

concerned after due inquiry.

Learned counsel for the petitioner has further contended that there was no tournament in February, 2017, as such there was no occasion for happening of the incident. However, learned counsel for the complainant had contended that this fact was wrongly mentioned inadvertently and the correct date has since been informed to the police.

In my view, the petitioner Mohd. Saqib cannot take advantage of this fact in any manner. As regards delay in reporting the matter to the police, it has to be taken into consideration that in such like matters, people do hesitate to lodge information with the police at the earliest since a big social stigma is likely to be attracted in that case.

As far as **CRM-M-37449-2017** filed by petitioner Sakib @ Mohd. Saqib is concerned, no case is made out to grant him pre-arrest bail. Thus, **CRM-M-37449-2017** filed by petitioner Sakib @ Mohd. Saqib stands dismissed.

31.10.2017
Brij

(H.S. MADAAN)
JUDGE

1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**