

Criminal Misc. M- No. 46730 of 2016 (O&M)

Date of decision : May 12, 2017

Nirmal Singh @ Nimma and another

.....Petitioners

Versus

State of Punjab

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. Gurbir Singh Sidhu, Advocate
for the petitioners.

Mr. Deep Singh, AAG, Punjab.

Mr. Gaurav Sharma, Advocate
for the complainant.

LISA GILL, J.

Prayer in this petition is for grant of anticipatory bail to the petitioners in FIR No. 109 dated 20.11.2016 registered under Sections 376, 328, 506, 120B IPC at Police Station Rurke Kalan, District Barnala.

While issuing notice of motion on 28.12.2016, it was observed as under:-

“ Learned counsel for the petitioners submits that it is Hardeep Singh who alleged to have committed rape, whereas his three other accomplices i.e. petitioners and one Beant Singh, only guarded the place of occurrence. Concededly, the incident is alleged to have taken place a year ago and there is hardly any explanation as regards the gross and inordinate delay. So much so, prosecutrix admitted in her statement, that she did not even remember the date and month of occurrence. Further, Manpreet Kaur alleged to have introduced the complainant to her cousin Hardeep Singh, and post occurrence,

assured the prosecutrix of her marriage with Hardeep Singh. However, Hardeep Singh left for Dubai in December, 2015. It is contended that, in fact complainant had an affair with Hardeep Singh, and she wanted to marry him, but that did not materialize. So much so, petitioners were named by the prosecutrix in her statement, under Section 164 Cr.P.C., which apparently was an attempt to improve upon her case, and thus their implication is false.”

Learned counsel for the complainant and the State state that specific allegations have been levelled against both the petitioners alongwith others. The fact that the complete details are not mentioned in the FIR cannot be of any benefit to the petitioners. The victim has clearly stated in her statement under Section 164 Cr.P.C. that the occurrence took place in October/November, 2015 and all the four accused violated her person. It is however not disputed that the report in this case has been lodged after nearly one year though it is sought to be explained on the ground of threat being held out by the accused persons.

Learned counsel for the State, on instructions from ASI Gursewak Singh, affirms that the petitioners have joined investigation pursuant to order dated 28.12.2016. Their custodial interrogation is not required.

There are no allegations on behalf of the State that the petitioners are likely to abscond or that they are likely to dissuade the witnesses from deposing true facts in the Court, if released on bail. The petitioners are not involved in any other criminal case.

Keeping in view the facts and circumstances noted above but without expressing any opinion on the merits of case, it is considered just

and expedient to allow this petition. Consequently, order dated 28.12.2016 is made absolute.

It is reiterated that none of the observations made herein above are a reflection on the merits of the case and shall have no bearing on the trial.

May 12, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No