

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

Criminal Misc. No. M- 2814 of 2018 (O&M)

Date of decision : March 26, 2018

Pardeep @ Pappu

.....Petitioner

Versus

State of Haryana

....Respondent

Criminal Misc. No. M- 1314 of 2018 (O&M)

Narender alias Nanhe

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Munish Kumar Garg, Advocate
for the petitioner (CRM-M- 2814-2018).

Mr. Amit Kumar Goyal, Advocate
for the petitioner (CRM-M-1314-2018).

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

LISA GILL, J.

This order shall decide CRM-M- 2814-2018 (Pardeep @ Pappu versus State of Haryana) and CRM-M-1314-2018 (Narender alias Nanhe versus State of Haryana). Facts are being taken from CRM-M- 2814-2018 for the sake of convenience.

Petitioners in both the petitions pray for bail pending trial in FIR No. 00362 dated 18.09.2017 under Sections 323, 452, 506, 376, 511, 419, 34 IPC registered at Police Station Kundli, Sonipat.

As per allegations in the FIR, petitioners – Pardeep @ Pappu and Narender alias Nanhe knocked at the complainant's door on 17.09.2017 at 2.00 o'clock in the afternoon. It is alleged that both the petitioners forcibly entered her room, physically abused the complainant and attempted

to rape her. Her blouse was torn in the struggle. She raised hue and cry on which both of the petitioners ran away from the spot.

Learned counsel for the petitioners submits that both the petitioners have been falsely implicated in this case. The petitioners and the complainant are neighbours, living in the same locality. An altercation between the parties has been given the present shape without any basis.

Learned counsel for the petitioners submit that two medico legal reports are on record. In the second medico legal report of the complainant of the same day i.e. 17.09.2011, it is specifically mentioned that the patient had first reported in the main casualty with a report of injuries and later on she reported a case of sexual assault. It is mentioned in the medico legal report that the complainant was brought to the hospital on 17.09.2011 at 6.50 p.m. by her husband. The patient revealed that she was assaulted by her neighbour Pardeep. An attempt to rape was made by him. She also complained of three earlier attempts of rape in the last two months by the same person. Learned counsel vehemently argues that no such allegation of earlier attempts to rape the complainant has been raised in the FIR. Moreover, the prosecutrix has since testified before the learned trial Court on 27.02.2018. There is a further contradiction in her statement inasmuch as the complainant stated that she received fist and kick blows in the abdomen, injuries on her shoulder, left side of her forehead and blood oozed out from the ear whereas this is not so reflected in medico legal report which only talks of tenderness of right wrist, lower abdomen and abrasion on the right eye. The petitioners, it is submitted, are not involved in any other criminal case. They undertake not to abuse this concession if granted to them. It is, thus, prayed that both these petitions be allowed.

I have heard learned counsel for the parties. Certified copy of statement prosecutrix (PW1) furnished in Court today is taken on record subject to just exceptions. Needless to say the evidence on record shall be considered and appreciated by the learned trial Court at an appropriate stage. No opinion is being expressed on the merits thereon.

Learned counsel for the State, on instructions, from ASI Rambir verifies that both the petitioners are not involved in any other criminal case. The petitioners have been in custody since 19.09.2018. It is not denied that the prosecutrix in this case has since testified before the learned trial Court.

There are no allegations on behalf of the State that 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.

No useful purpose shall be served by keeping the petitioners incarcerated any longer. 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, both the petitioners - Pardeep @ Pappu and Narender alias Nanhe be released on bail pending trial subject to their furnishing requisite bail bonds and surety to the satisfaction of the learned trial Court.

It is, however, clarified that the petitioners shall not try to contact the complainant or any of her family members in any manner - directly or indirectly. Any such infraction on the part of the petitioners shall entail cancellation of his bail.

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.

March 26, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No