

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

CRM-M-32555-2018

Date of decision:-27.9.2018

Didar Singh

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.Mikhail Kad, Advocate
for the petitioner.

Ms.Samina Dhir, DAG, Punjab.

H.S. MADAAN, J.

This petition for regular bail has been filed by petitioner –
Didar Singh – an accused in FIR No.17 dated 22.2.2018, under Sections
363/366-A IPC and 4/6 of POCSO Act (offence under Sections
376(2)(N)/376-D/372/506/120-B IPC added later on), registered with
Police Station Sandaur, District Sangrur.

Briefly stated, the facts of the case, as per the prosecution
story are that FIR in question was registered on the basis of statement

dated 22.2.2018 made by complainant Bambal Shah son of Boote Shah, resident of Mithewal, wherein he stated that his maternal grand-daughter (name withheld to protect her identity in view of Section 228-A IPC and as per the directions given by the Hon'ble Apex Court in case titled State of Karnataka Vs. Puttaraja, 2004(1) RCR(Cri.) Supreme Court, 113 (SC) and referred to as 'the prosecutrix') aged about 17 ¼ years, a student of 10+2 class in Government Senior Secondary School, Sandaur had been residing with him for last about six years; that on 18.2.2018 at about 10:00 a.m., she went missing; the complainant and his other relatives searched for her but in vain. The complainant stated that he had a doubt that Didar Singh son of Amarjit Singh, resident of Farwali had kidnapped his such grand-daughter by giving her allurements.

After registration of the FIR, investigation in the case started. The date of birth certificate of the prosecutrix was obtained showing her date of birth to be 17.9.2000, in that way, she was aged 17 years 5 months and 5 days at the time of registration of the FIR. On 1.3.2018 the prosecutrix was recovered from Railway Station, Agra. Her statement under Section 161 Cr.P.C. was recorded and on the basis thereof Sunny Singh son of Jagtar Singh, Gurpreet Singh son of Randhir Singh, Charanjit Kaur @ Kamal wife of Budh Singh @ Balwinder Singh, residents of Farwali were nominated as accused and offences under Sections 376/120-B/506 IPC and Sections 4 and 6 of POCSO Act were added. The statement of the prosecutrix was also got recorded under Section 164 Cr.P.C. by Judicial Magistrate Ist Class, Malerkotla, wherein she stated that on 17.2.2018 at 9:30 p.m., Didar Singh had made a call on

her mobile phone stating that Sunny (juvenile accused) would come to take her and she should accompany him, otherwise they would kill her grand-parents. She further stated that Sunny and Didar Singh used to come to her house and held out threats that if she did not meet them, then they would kill her grand-parents and both of them had sexual intercourse with her against her wishes about 10 times in her house; that on the next day in the morning, she received a phone call from Sunny that he was standing near village dispensary and she should come there, accordingly she went there and Sunny took her to Railway Station, Ludhiana; that Sunny had taken her mobile phone; that Gurpreet Singh and Charanjit Kaur @ Kamal were already there with tickets; that Sunny left her with them and went back after taking money from them, thereafter, Charanjit Kaur @ Kamal took her to bathroom, removed her *salwar kameez*, which she was wearing and made her to wear jeans; she closed her mouth and then she was taken to Gurgaon and thereafter, to village Karuwada; she was locked in a room; that Gurpreet committed rape on her for 5-6 days; they cut her hair and used to take her photographs after make up; that her nude photographs were also taken and when she stated that she be allowed to speak to Sunny then Gurpreet and Charanjit Kaur @ Kamal told her that Sunny would not come back and they had purchased her by paying money. According to the prosecutrix, both of them took her to Railway Station Agra, where Charanjit Kaur @ Kamal started taking off her clothes and Gurpreet tried to rape her while being under influence of alcohol but she managed to escape and made telephone call to her maternal uncle.

During the course of investigation, the prosecutrix was got medically examined from Civil Hospital, Malerkotla. Vaginal swabs were taken and sent for chemical analysis and as per report received therefrom Spermatozoa were detected in those swabs. Didar Singh accused was arrested in this case on 3.3.2018, whereas other accused were arrested on 14.3.2018. After completion of investigation, challan against Didar Singh, Gurpreet Singh and Charanjit Kaur @ Kamal has been filed in the Court. The case has been committed. Formal charge has been framed against the accused by learned Sessions Judge, Sangrur and out of 18 PWs, 11 have been examined, 5 PWs have been given up and now the case is fixed for 19.9.2018 for evidence of remaining two PWs. All these facts are mentioned in detail in written reply submitted by the State, wherein it is also mentioned that challan against fourth accused namely Sunny was presented before Juvenile Justice Board, Sangrur separately on 2.5.2018 since he is a juvenile and charge has been framed against him and case is fixed for PWs.

The petitioner/accused Didar Singh had filed an application for regular bail in the Court of Sessions, which was declined by learned Sessions Judge, Sangrur vide order dated 10.7.2018, as such, he has approached this Court with the same request.

Notice of the petition was given to respondent – State and counsel representing the State has put in appearance.

I have heard learned counsel for the parties besides going through the record.

The allegations against the petitioner/accused are very grave

and serious of not only he along with Gurpreet Singh had been raping the prosecutrix repeatedly in her house and in addition to that he along with Sunny had sold her off to Charamjit Kaur @Kamal and Gurpreet Singh and thereafter, Gurpreet Singh had been raping her repeatedly. His act and conduct clearly debar him from concession of regular bail. The trial is almost at the fag end and is likely to concluded in near future. The apprehension expressed by the State counsel that if petitioner is granted bail, there is every likelihood to his absconding and even trying to tamper with the prosecution evidence cannot be brushed aside lightly.

Therefore, finding no merit in the petition, the same stands dismissed.

27.9.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No