

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

CRM-M No.51429 of 2018 (O&M)
Date of decision: 11th December, 2018

Chander @ Subhash Chand & another

... Petitioners

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Vishwajeet Singh, Advocate for the petitioners.

Mr. Amrik Narwal, Dy. Advocate General, Haryana
for the respondent/State.

FATEH DEEP SINGH, J.

This order shall dispose off first anticipatory bail application of accused petitioners Chander alias Subhash Chand and Sumit Kumar filed under Section 438 Cr.P.C. in case bearing FIR No.99 dated 14.10.2017 under Sections 323, 354-A, 506 IPC; Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 10 of the Protection of Children from Sexual Offences Act, 2012 pertaining to Police Station Women, District Palwal.

The brief facts brought to the notice of the Court are that the prosecutrix, a young girl aged around 16 years and 3 months belonging to scheduled caste/scheduled tribe, on 01.10.2017 around 11:30 a.m. was going to her home after collecting fodder from the fields when the accused petitioners accompanied by principal accused non-applicant Deva accosted her. It is alleged, the petitioners caught hold of the

prosecutrix from both arms whereas their co-accused Deva gave abuses using derogatory language for the caste of the prosecutrix and while the petitioners were catching hold of the prosecutrix, the principal accused Deva fondled with her bosom and buttocks leading to registration of the present case.

Mr. Vishwajeet Singh, Advocate learned counsel for the petitioners has argued that both the petitioners were found innocent during investigations by the DSP and there is a delay of 14 days in registration of the FIR and only allegations of the petitioners having caught hold of the prosecutrix have been leveled and that nothing is to be recovered.

Learned State counsel Mr. Amrik Narwal, Deputy Advocate General, Haryana on instructions from SI Ishwar, Police Station Women, District Palwal has vehemently opposed grant of bail on the grounds that modesty of a young minor girl has been outraged by three accused in a pre-planned and pre-concerted manner and that the police, to save the accused, had initially failed to register the FIR and subsequently have devised a way to hold the present petitioners innocent and thus, in view of the heinousness of the offence disentitles them to any relief.

Going through the submissions, apparently the prosecutrix is a minor girl and as per the allegations, the two accused petitioners have caught hold of her by her arms whereas the third accused fondled her and caressed her in the open, rather reflect the scant regard for the law of the

land by the petitioners. The mere delay of 14 days in registration of the case and holding the petitioners innocent, certainly to the mind of this Court rather reflect the influence of the accused who have tried to stifle the investigations by all means. Even the statement of the prosecutrix placed on record by the petitioner side corroborates to her allegations and being a poor girl belonging to scheduled caste/scheduled tribe, is certainly a factor which weighs heavily in the mind of the Court that all was not well with the investigations of this case for obvious reasons. More so, it is well settled that the provisions of Section 438 Cr.P.C. are to be sparingly used. In the light of heinousness of the offence and seriousness of the allegations does not call for grant of anticipatory bail to the petitioners. The petition being without any merit, stands dismissed.

(FATEH DEEP SINGH)
JUDGE

December 11, 2018

rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No