

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

CRM-M-5812-2018

Date of decision: 28.03.2018

Haroon and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Arjun Attri, Advocate,
for the petitioners.

Mr. P.P. Chahar, DAG, Haryana.

Mr. Sarfraj Hussain, Advocate,
for the complainant.

JAISHREE THAKUR, J.

This is a petition that has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioners, who have been summoned under Section 319 Cr.P.C. by the learned trial Court vide order dated 16.10.2017, in case FIR No. 247 dated 30.12.2016 under Sections 363, 366-A IPC registered at Police Station Nagina, District Nuh. The offence under Sections 376-D IPC and Section 6 of POCSO Act was added later on and thereafter, in enquiry, both the offences have been removed and offence under Sections 376 IPC and Section 4 of POCSO Act were added.

In brief, the facts are that an FIR was got registered at Police Station Nagina, District Nuh by the father of the prosecutrix under Sections 363, 366-A IPC on an allegation that his daughter had been kidnapped.

Learned counsel for the petitioners contended that due to the party faction they have been falsely implicated in the present case. In fact,

during investigation, their names had been kept in column No.2. However, they have been summoned only on the basis of an application filed under Section 319 Cr.P.C.

Grant of bail has been strenuously opposed by learned State counsel as well as counsel for the complainant on the ground that there are serious allegations of kidnapping, penetrative sexual assault committed upon the victim minor girl.

Learned counsel for the petitioners contends that their names were not reflected in the FIR and, therefore, they would be entitled to grant of anticipatory bail as they were found innocent during the interrogation and have been summoned only on the basis of an application under Section 319 Cr.P.C.

I have heard learned counsel for the parties and have perused the record.

Admittedly, the name of the petitioners were not reflected in the FIR but this Court cannot lose sight of the fact that the FIR is never a detailed one. The complainant would not know as to who kidnapped his daughter and at best can only disclose to the police at the first instance that his daughter is missing and presumably kidnapped. It is after the prosecutrix was located and her statement was recorded under Section 164 Cr.P.C. wherein she named five persons who had committed the offence of rape upon her. One of the co-accused who has been arrested has admitted his crime. It is when the prosecutrix got her statement recorded that the petitioners herein are sought to be arrested.

Therefore, keeping in view the gravity of the offence alleged to have been committed by the petitioners herein, this Court finds that they are

not entitled to the concession of anticipatory bail.

Dismissed.

28.03.2018

Satyawan

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes.
No.