

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

**Date of decision : May 13, 2019**

**1. Criminal Misc. No. M-12120 of 2019 (O&M)**

Balender

....Petitioner

versus

State of Haryana

....Respondent

**2. Criminal Misc. No. M-12335 of 2019 (O&M)**

Akash

....Petitioner

versus

State of Haryana

....Respondent

**Coram: Hon'ble Mr. Justice Fateh Deep Singh**

Present : Mr. Lekh Raj Nandal, Advocate, for petitioner-Balender  
Mr. Dinesh Arora, Advocate, for petitioner-Akash  
Mr. Amrik Narwal, DAG Haryana for the State with  
ASI Sushila, PS Arya Nagar, Rohtak

**Fateh Deep Singh, J. (Oral)**

Since both these regular bail applications one by accused  
petitioner Balender and other by accused petitioner Akash have

arisen in the same very FIR are thus being taken up together for disposal for the convenience of brevity.

The facts that have been brought to the notice of this Court are that the present case was got registered by complainant father of minor girl aged around 14-14½ years alleging that around 6.50 PM on 23.10.2017 his daughter had gone out for some time but never returned leading to registration of the present case. It was during the course of investigations it came to light that accused petitioner Akash who was known to the victim about 3/4 months prior to this occurrence has taken away the victim to the house of one Mohit alias Silak Ram where the girl was defiled by Akash. Thereafter accused-petitioner Balender (cousin brother of Mohit above said) and non-applicant accused Anil Kumar came and after picking up a quarrel with Akash took the girl into fields and was again defiled by them. The girl was recovered on 24.10.2017 from the accused and who made statement under Section 164 Cr.P.C. wherein she detailed the role of each of the accused in the commission of offence leading to the arrest of the petitioners.

Mr. Lekh Raj Nandal, Advocate, for petitioner-Balender and Mr. Dinesh Arora, Advocate, for petitioner-Akash have argued that co-accused Anil Kumar has been allowed bail by this Court and the case of the petitioners is not distinguishable from that of his co-

accused who are in custody since long time. Counsel have further sought to create doubt on the veracity of the prosecution story by probabilitising the flaws in the statement under Section 164 Cr.P.C. of the girl.

Learned State counsel, Mr. Amrik Narwal, DAG Haryana assisted by ASI Sushila, PS Arya Nagar, Rohtak have opposed the grant of the bail on the ground that case of Anil Kumar is quite distinguishable from that of the present petitioners as he was neither named in the FIR nor in statement under Section 164 Cr.P.C. and there was semblance of evidence against the petitioners. It was vehemently submitted that specific name of the present petitioners Balender and Akash have come in the statement of the girl and the allegations of having defiled her and therefore, in view of the seriousness of the offence does not calls for grant of bail.

Appreciating the submissions as is there in the investigations and evidence gathered during it brought to the notice of the Court, a minor girl after having been duped by accused Akash has been subsequently repeatedly raped by different persons and therefore, stirs the judicial conscience of this heinousness of the crime. The case of co-accused non-applicant Anil Kumar is at much variance from the case of the petitioners. In the light of the allegations and the heinousness of the offence does not entitles the

petitioners to any relief. Finding no merit, both the bail applications stand dismissed.

The observations made herein above shall have no bearing on the merits of the case as these are purely for the disposal of the present bail applications.

May 13, 2019  
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( Fateh Deep Singh )  
Judge

*Whether speaking/reasoned ?*  
*Whether Reportable ?*

Yes/No  
Yes/No