

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

1. CRM-M No.30576 of 2018

Ravinder Singh @ Ravi

... Petitioner

Versus

State of Punjab

... Respondent

2. CRM-M No.49823 of 2018

Shimla @ Shimla Kaur

... Petitioner

Versus

State of Punjab

... Respondent

Date of decision: 20th March, 2019

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. K.S. Boparai and Mr. Vishal Malik, Advocates
for the petitioners.

Mr. A.S. Sandhu, Addl. Advocate General, Punjab
for the respondent/State.

FATEH DEEP SINGH, J. (ORAL)

Both these regular bail applications under Section 439 Cr.P.C., one by accused Ravinder Singh alias Ravi and the other by Shimla alias Shimla Kaur, having arisen out of the same very FIR bearing No.156 dated 15.09.2017 under Sections 376, 506, 34 IPC and sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012, on account of consanguinity of the facts, are being taken up for disposal together.

The facts as have been brought to the notice of this Court are that present case was got registered on the statement of Karnail Kaur

mother of the victim, an unmarried girl aged around 16 years, alleging that two months prior to the registration of the present case i.e. 15.09.2017, daughter of the complainant who was staying at home and used to accompany her aunt present petitioner Shimla alias Shimla Kaur as a labourer for harvesting crops and on her insistence she started interacting with the co-accused petitioner Ravinder Singh alias Ravi and it is alleged that on the instigation of Shimla alias Shimla Kaur, petitioner Ravinder Singh alias Ravi used to defile the minor girl either in the fields or at her home repeatedly leading to registration of the present case.

Learned counsel representing both the petitioners inter alia contend that the victim has not been associated in the investigations nor there is any medical evidence to establish the allegations of rape and there is no semblance of evidence against the petitioner collected during the course of investigations and that both the petitioners are behind bars since 17.09.2017 and that the trial has been held up as neither the victim nor the complainant have appeared for their examination.

Learned State counsel on instructions from ASI Hardam Singh, Police Station Doraba, District Khanna concedes at the bar that though the petitioners have joined the investigation but have thereafter disappeared and in spite of the best efforts of the investigating agency are not cooperating to carry on the DNA profile of the alleged child born out of this relationship. It is further conceded by the learned State counsel that at the time of medico legal examination of the victim, no sign of

sexual assault including presence of spermatozoa in the vaginal swabs could be detected.

Appreciating the submissions of the two sides, in the light of the stand of the State and the fact that the petitioners are behind bars for almost one year and five months and as has been brought to the notice of this Court that both the victim and the complainant are untraceable, without feeling necessity to advert on to the merits of the case, this Court is of the opinion that it is a fit case to allow the prayer made. Accordingly, both the petitioners are ordered to be released on regular bail to the satisfaction of the trial Court. However, it is made clear that anything observed herein shall not be construed as an expression on the merits of the case.

Both the petitions stand disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

March 20, 2019
rps

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