

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

217

CRM-M-31537-2018

Date of Decision:14.05.2019

Jiwan Singh alias Raja

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Ms. Kusum Raj, Advocate,
for the petitioner.

Mr. Rana Harjasdeep Singh, D.A.G., Punjab.

Respondent No.2 in person.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.49 dated 29.03.2017 under Sections 376-D, 342 IPC read with Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Maqsudan, District Jalandhar.

The aforesaid FIR was registered at the behest of respondent No.2-Ashma @ Zarina. As per FIR on 14.09.2016 at about 07.30 PM, when after duty hours, the complainant was going back to her home and had reached at some distance from the factory where she was working, a car arrived there. From the car, one Deepak alighted. The complainant was picked up with the help of three other associates who were in the vehicle and she was put in a car in forcible manner. The accused gagged her mouth

and put off apparels and tied her face, which resulted coverage of her eyes and mouth. She was taken to some unidentified place and was given beatings. All the four persons committed rape upon her one by one. She was made to consume liquor intoxicated substance forcibly. Whenever she used to come out of the effect of intoxicated substance, the accused again used to administer intoxicant with an intention to disturb her mental state of mind. During this period, they committed numerous tortures upon her. Whenever the complainant regained consciousness, she requested the accused not to do so. When the complainant could not succeed in getting freed from the grip of the accused, she lost every hope of life. The accused put *sindur* in her *maang* by saying that now you are married with all of us. The accused kept on committing rape with the complainant.

Learned counsel for the petitioner has argued that in fact the FIR has been registered at the instance of the complainant falsely and investigation was conducted. Resultantly, challan was presented. The investigating officer and the complainant are hands in glove with each other. The story put forward by the complainant is totally concocted. She has further argued that the petitioner and complainant-respondent No.2 have solemnized marriage and they are staying together as husband and wife. She further states that marriage between the parties was inter-religion. Parents of respondent No.2 did not accept the marriage and it is for this reason, the present FIR was registered not only against the petitioner, rather against other co-accused including two brothers of the petitioner. The petitioner-Jiwan Singh who is present in the Court along with respondent No.2 states that he has solemnized marriage with the complainant on 12.08.2016.

This Court vide order dated February 06, 2019 while noticing the contention of learned counsel for the petitioner that the petitioner and the complainant have solemnized marriage, admitted the petitioner on interim bail, so as to join the mediation proceedings. However, report of the Mediator suggests that the mediation could not take place in the absence of respondent No.2 as despite notice, she did not turn up and in these circumstances, the Mediator has sent back the file to this Court.

Learned State Counsel, on instructions from ASI Bhupinder Singh, has identified the complainant-respondent No.2. However, he states that respondent No.2 was minor on the relevant date and the allegation against the petitioner and other co-accused is of committing a gang rape.

Heard learned counsel for the parties.

The petitioner and respondent No.2 are present in the Court and respondent No.2 has duly been identified by the Investigating Officer. Respondent No.2 has stated that she is about 21 years of age. Her physical appearance gives a tentative corroboration of her age. Since they have solemnized marriage and are staying together as husband and wife, the present petition is allowed and the order dated February 06, 2019 passed by this Court, whereby the petitioner was admitted on interim bail, is hereby made absolute, however, subject to furnishing of his fresh bail bonds/surety bonds to the satisfaction of trial Court.

May 14, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No