

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

222

CRM-M-21124-2019

Date of Decision: 14.05.2019

Sawan Kumar Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

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

Present: Mr. Charanpreet Singh, Advocate,
for the petitioner.

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

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.266 dated 31.07.2018 under Sections 376, 506 IPC and Section 4 of the POCSO Act, 2012, registered at Police Station Sahnewal, District Ludhiana.

The aforesaid FIR was registered at the behest of Anita Devi, who is mother of the victim. As per FIR, on 28.06.2018, the complainant who is otherwise presently residing in Masjid Valli Galli, Makarh Colony, PS Sahnewal, District Ludhiana, had gone to village Shivapur, Uttar Pradesh for some work. She returned back to Giaspura, Ludhiana on 18.07.2018 and on 30.07.2018, her daughter told her that the petitioner took the victim forcibly to his rental home under the threat and committed rape upon her. The petitioner has also threatened the victim if she will disclose

this fact to anyone, then he will kill her and her family members.

Learned counsel for the petitioner has argued that the alleged incident of rape took place on 02.07.2018, whereas the complainant had gone to Uttar Pradesh on 28.06.2018 and has returned back to Giaspura Ludhiana on 18.07.2018 and the incident of alleged rape was informed to the complainant on 30.07.2018. In this manner, the FIR is delayed by about 28 days in any case 13 days as she has returned back to Giaspura Ludhiana on 18.07.2018. He has further argued that when the victim was sent for medical examination, she has refused for medical examination. Even the parents of the victim also refused for medical examination of the victim despite the fact that they were duly explained the requirement of such examination. In the absence of such medical examination, it cannot be established that the victim was sexually assaulted, therefore, the chances of conviction are bleak.

Learned State Counsel, on instructions from ASI Baljit Singh, has pointed out that there is complete co-herece in the statement of the complainant-Anita Devi and the victim and while making statement under Section 164 Cr.P.C., the victim has supported the prosecution version as narrated in the FIR.

Heard learned counsel for the parties.

The present FIR was registered at the behest of complainant-Anita Devi. Admittedly, as per FIR the complainant has returned back to village Giaspura Ludhiana on 18.07.2018, whereas the present FIR was registered on 31.07.2018 i.e. after a delay of about 13 days. However, the victim was offered for her medical examination, but neither the victim nor her parents have come forward to accept the offer of medical examination of the victim. Therefore, in the absence of such medical examination, this

Court finds that the culpability of the petitioner in the crime is yet to be established during the course of trial. Petitioner is in custody since 01.08.2018. Thus, he deserves to be admitted on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of his bail bonds/surety bonds to the satisfaction of trial Court.

However, the observations made hereinabove shall not be construed as an expression on the merits of the case. The trial Court shall proceed with the trial independently without being influenced by the order of bail passed by this Court.

May 14, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No