

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

1. CRM-M No.47038 of 2018

Hardev Singh @ Sonu

... Petitioner

Versus

State of Punjab

... Respondent

2. CRM-M No.61531 of 2018

Parveen Kumar Sain

... Petitioner

Versus

State of Punjab

... Respondent

Date of decision: 30th January, 2019

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. M.K. Singla and Mr. Gurpreet S. Sandhu, Advocates
for the petitioners.

Mr. Saurav Khurana, Dy. Advocate General, Punjab
for the respondent/State.

FATEH DEEP SINGH, J.

As both these regular bail applications under Section 439 Cr.P.C., one by accused petitioner Hardev Singh alias Sonu and the other by accused Parveen Kumar Sain have come about in the same very FIR bearing No.151 dated 07.07.2018 under Section 376-D IPC pertaining to Police Station Kotwali, District Bathinda, are thus being taken up together for disposal for the sake of convenience.

The facts brought to the notice of this Court are that the present case was got registered by the victim, an unmarried girl aged

around 21 years, alleging that on 03.07.2018 she had gone to attend her classes and while coming back got late and on the way met her mother and brother Robin who had come to search for her. Finding the girl to be coming late, the mother slapped her and in a fit of rage her brother and mother left on the vehicle on which they had come and thereafter, the girl made a telephone call to her classmate who advised her to contact a rehriwala, whose name was subsequently disclosed as Parveen Kumar present petitioner (also referred to as Sain). Thereafter, he was joined by two other accused including the present petitioner Hardev Singh alias Sonu and on the way the girl was administered something intoxicating laced in Lassi and after she became unconscious, she was raped by the accused leading to registration of the present case on 07.07.2018 in which accused petitioner Hardev Singh was arrested on 17.07.2018 and Parveen Kumar on 08.07.2018.

Mr. M.K. Singla and Mr. Gurpreet Singh Sandhu, learned counsel for the petitioners have argued that the petitioners are behind bars since a long time and that the entire story of the prosecution on the face of it appears to be highly implausible and that no spermatozoa could be detected upon chemical examination of the swabs nor there is any injury to show that it was an alleged case of forcible act. It is further submitted that there is inordinate delay in lodging of the FIR and the alleged

occurrence and that the trial is not likely to be concluded in the near future.

Mr. Saurav Khurana, learned Deputy Advocate General, Punjab on instructions from HC Harinder Singh, Police Station Kotwali, District Bathinda has opposed grant of bail on the grounds of heinousness of the offence being gang-rape of an innocent girl left in a lurch at late hours and that in view of the seriousness of allegations the petitioners are not entitled to any relief as they have defiled an innocent girl.

Going through the submissions of the two sides, this Court is constrained to observe the pathetic investigations when Sukhwinder Singh alias Laddi, against whom the entire story revolves at the initial stage, has neither been cited as a witness nor as an accused and deserves not to be commented upon at this juncture. The mere delay between the alleged occurrence and registration of the FIR cannot be commented upon at this stage. The victim claims that she was kept by the accused forcibly and raped and thereafter when she left next morning and returned to her town, the complaint was got lodged. The girl had identified the culprits. Mere non-detection of spermatozoa in the samples is after a delay, as the tests were conducted on 20.09.2018 and mere non-presence of any injury does not support the case of the defence when it is the categorical stand of the prosecution that the girl was administered a drink

laced with some medicine/intoxicant. Mere fact that the petitioners are behind bars since a long time, is no extenuating circumstance for grant of bail. Thus, finding no merit, both the present petitions stand dismissed.

(FATEH DEEP SINGH)
JUDGE

January 30, 2019
rps

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