

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRR-1399-2019 (O&M)

Date of Decision:- 6.12.2019

Rahul and another

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. K.S.Dhaliwal, Advocate, for the petitioners.

Ms. Aditi Girdhar, AAG, Haryana.

GURVINDER SINGH GILL, J. (Oral)

1. Petitioners-Rahul and Ravinder Singh have approached this court challenging judgment dated 16.5.2019, passed by learned Additional Sessions Judge, Jind whereby an appeal filed by the petitioners against judgment dated 4.5.2019 passed by learned PMJJB-cum-JMIC, Jind has been dismissed.

2. The FIR was lodged at the instance of Monika, mother of the victim wherein it has been alleged that on 25.3.2019, when her daughter aged 8 years was playing in the street then Aman, Rahul and Ravinder took her daughter to a private school by alluring her with money and attempted to commit obscene act with her and tried to rape her daughter and kept her confined there for about 30 minutes.
3. Learned counsel for the petitioners has submitted that a false FIR has been lodged against the petitioners and that the falsity would be evident from the fact that when the statement of the prosecutrix was recorded in terms of Section 164 Cr.P.C. she did not utter a word against the petitioners and the only allegation is against co-accused namely Aman. Learned counsel for the petitioners has referred to the said statement under Section 164 Cr.P.C. (Annexure P-1) which reads as follows:

“My mother had sent me to the house of Aman to get needle. Aman did wrong act with me, that firstly he did it in the house and then on the roof. There was one more tall boy. I do not remember his name. There was one more I do not remember his name also. I can identify him on being confronted. They are of my village. That Aman belongs to Saini’s caste. That Aman is son of a Jhimer caste, the remaining two belong to Saini caste. My clothes were removed and did obscene acts.”

4. Opposing the petition, learned State counsel has submitted that since the victim in her statement under Section 164 Cr.P.C. has given a specific description of the persons accompanying the main accused Aman and subsequently when her statement was recorded during the

proceedings of trial she has specifically named the petitioners in the statement, no case for grant of bail is made out.

5. I have considered rival submissions addressed before this Court. A perusal of statement of the victim recorded under Section 164 Cr.P.C. shows that while she has categorically stated that Aman had committed obscene act with her and has also stated that there were other persons also present whose description has been given but the statement is somewhat ambiguous inasmuch as it is not categorically stated there that the other boys who are accompanying Aman had also committed any objectionable or obscene act with her. Similarly when the statement of the prosecutrix was recorded during the proceedings of trial, she stated that the accused had committed bad act with her and has named the petitioners as well as others although the details of the said bad act are not mentioned therein.
6. Keeping in view the facts and circumstances of the case and the fact that the petitioners have been behind bars since the last more than 8 months and that the victim and the complainant have already been examined and till date only 4 PWs out of the cited 11 PWs have been examined, further detention of the petitioners will not serve any useful purpose. The revision petition, as such, is accepted and judgment dated 16.5.2019, passed by learned Additional Sessions Judge, Jind and judgment dated 4.5.2019 passed by learned PMJJB-cum-JMIC, Jind stand set aside. Petitioners-Rahul and Ravinder Singh are ordered to be released on regular bail on their furnishing

bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

7. It is, however, clarified that none of the observations made above shall be construed to be an expression on merits of the main case and the Trial Court/Juvenile Justice Board shall proceed to decide the main case without being influenced by any observations made hereinabove.

December 6, 2019

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No