

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

CRM-M-32929-2019 (O&M)
Date of Decision:-22.8.2019

Sumit	Versus	... Petitioner
State of Haryana		... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sanjiv Kumar Aggarwal, Advocate for the petitioner.
Mr. Ashok Singh Choudhary, Addl. Advocate General, Haryana,
assisted by ASI Ravnir Singh.

GURVINDER SINGH GILL, J.(Oral)

The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.64 dated 26.6.2019 at Police Station Women Police Station, District Sirsa, Haryana under Sections 354, 354-A and 506 of Indian Penal Code and Sections 8 and 10 of POCSO Act, 2012.

The FIR was lodged at the instance of prosecutrix, wherein it has been alleged that when she was 11 years old and was studying in class 6th in Minarva Public Sr. Sec. School, Sant Nagar in the year 2015, the petitioner Sumit Nehra used to take english classes. It is alleged that one day he told the prosecutrix that he likes the prosecutrix but the prosecutrix did not give any response. It is further alleged that whenever the prosecutrix went up to Sumit

Nehra to show her note-book, he used to write in her note-book as to whether he can touch her but she did not give any response. It is further alleged that later on one occasion, Sumit Nehra even put his hand in the shirt of the prosecutrix and when the prosecutrix objected to the same, he threatened that he would commit rape upon the prosecutrix. It is further alleged that when the complainant reported the matter to the Principal Gurbhej Singh Binder, he shunted out the teacher from the school, but the said teacher again came back in the school after about two months. The prosecutrix after completing class 7th left the school in the year 2016 and came to her maternal grandparents in Village Bhaini Sahib, Ludhiana, Punjab where she was residing with them in old age home at Dera. It is alleged that during the said period she became friends with Man Singh and Guru Partap and that Guru Partap established physical relations with her. Later even Man Singh established physical relations with the prosecutrix. It is alleged that although the complainant liked the same and did not realise the seriousness of the matter, but later on she used to remain disturbed.

The learned counsel for the petitioner has submitted that even as per perusal of the FIR, the only role attributed to the petitioner is that it was in the year 2015 that he had made some advances towards the prosecutrix. It has further been submitted that the allegations of rape are against two other persons namely Man Singh and Guru Partap and which pertain to the year 2019 and that in these circumstances, the petitioner cannot be connected with the alleged rape in any manner especially since the alleged rape was committed in State of Punjab by altogether two different persons.

Opposing the petition, the learned State counsel has informed that subsequent to lodging of the present FIR, the FIR qua Man Singh and

Guru Partap was treated as 'Zero FIR' as the offence allegedly committed by them was not committed in State of Haryana and that later on a separate independent FIR was lodged against aforesaid Man Singh and Guru Partap in District Ludhiana (Punjab).

Having regard to the facts and circumstances of the case from wherein I find that *prima facie* no offence under Section 376 IPC can be said to have been committed by the petitioner and further that any other offence, if committed, was committed about four years prior to lodging of the FIR in question, in my opinion, it is not a case warranting custodial interrogation. The petition, as such, is accepted and the petitioner, in the event of arrest, be released on bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

The present petition stands accepted accordingly.

22.8.2019

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No