

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : December 03, 2019

1. Criminal Misc. No. M-33100 of 2019 (O&M)

Sachin @ GuchnuPetitioner

versus

State of HaryanaRespondent

2. Criminal Misc. No. M-33208 of 2019 (O&M)

Anjali @ SeemaPetitioner

versus

State of HaryanaRespondent

3. Criminal Misc. No. M-34194 of 2019 (O&M)

Jitender @ PanditPetitioner

versus

State of HaryanaRespondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Abhimanyu Singh, Advocate for petitioners in
CRM-M-33100-2019 & CRM-M-34194-2019

Mr. Pawan Singh, Advocate, for the petitioner in
CRM-M-33208-2019

Mr. Baljinder Virk, DAG, Haryana for the State with
SI Munesh Devi, PS DLF Sector-29, Gurugram

Fateh Deep Singh, J. (Oral)

The above detailed regular bail applications one by Sachin alias Guchnu, second by Anjali alias Seema and third by Jitender alias Pandit have come about in the same very FIR No. 1013 dated 3.12.2017, under Sections 323, 506, 34, 307 IPC and Sections 6/17 of POCSO Act, Police Station DLF, Sector-29, Gurugram are thus being taken up and disposed of by this common order.

The present case was got registered by a young unmarried girl against five accused Anjali alias Seema, Jitender alias Pandit, Sachin alias Guchnu (present petitioners), Nikhil and Atul (juvenile). It is alleged by this complainant that her parents and brother were confined in jail for the last three years. It is claimed that on 17.9.2017, around 8/9 PM, accused Pandit along with co-accused Anjali came after telephonic call to the complainant and took her on a motor-bike to a Mandir in Gurugram and thereafter to a hotel where they had food. It is alleged that thereafter accused Pandit threatened the complainant that she should accompany him else he will kill her. Thereafter as per the allegations, Anjali and Pandit took the complainant near IFFCO chowk where accused Sachin and Atul were present and all of them took her to a nearby

jungle area and assaulted her and also raped her at knife point. The accused thereafter took her to a hospital in Gurugram from where she was referred to Safdarjung Hospital, New Delhi. The complainant testified that earlier due to fear she claimed to have received injuries on account of slipping from her Scooty but in fact the accused had assaulted her leading to the registration of the present case on 3.12.2017.

Learned counsel for the petitioners have argued that the complainant happens to be a major grown up girl and it is belatedly she has set up this false claim against the petitioners for a motivated cause when in her initial stand before the doctor she claims to have received injuries due to skidding of her vehicle. Counsel have sought to stress that even the FIR has come about belatedly and so her statement under Section 164 Cr.P.C. and all the allegations are vague and ambiguous. There is no specific role attributed to any of the accused necessitating their further custody especially when one of the accused-petitioner Anjali happens to be a female and in custody for more than one year and has been bestowed with a baby girl while in jail. It is contended that Nikhil has been allowed bail by this Court.

Learned State counsel has vehemently opposed the grant of bail on the grounds that the very medico legal report

corroborate the allegations of the complainant who initially because of her head injuries remained unconscious and could not make any statement which has come about after she regained consciousness. It is argued that the very allegations hover around the assault and rape of an unmarried girl and in view of the seriousness of the offence disentitles them to any relief.

Appreciating the submissions, counsel for the petitioners cannot take any benefit out of the bail order of accused Nikhil on account of parity. The medico legal report on the records clearly enumerated the history to be on account of gang rape after being hit on the back of the head and became unconscious, was undressed and which history has come about that it was accused Atul, Pandit and one un-known person who have ravaged her. It is on account of life threatening injuries which were being treated no test about her sexual assault could be carried on as earlier the victim remained unconscious. The victim in her statement under Section 164 Cr.P.C. has detailed each and every aspect of this occurrence and attributed role to each of the accused in the commission of the offence. Thus, from this all it is clearly suggestive that the young unmarried girl had been sexually assaulted after giving her life threatening injuries and therefore, in the light of the heinousness of the offence and the apprehension of the State that if allowed bail, the petitioners might

influence the trial, this Court is not inclined to allow bail to any of the petitioners and all the petitions as such stand dismissed.

The observations made herein above shall have no bearing on the merits of the case as these are purely for the disposal of the present bail application.

December 03, 2019

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(Fateh Deep Singh)

Judge

<i>Whether speaking/reasoned ?</i>	<i>Yes/No</i>
<i>Whether Reportable ?</i>	<i>Yes/No</i>