

Date of Decision : 23.10.2019

.....Petitioner

versus

....Respondent

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CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Mr. Pawan Sharda, Senior DAG, Punjab
for the respondent-State.

FATEH DEEP SINGH, J. (ORAL)

This order shall dispose off two anticipatory bail applications, one filed by Sandeep Kaur, elder married sister (CRM-M-38525-2019) and the other filed by Harwinder Kaur, mother

and Gurjit Kaur, younger unmarried sister (CRM-M-40861-2019) of the principal accused-Gurpreet Singh @ Deepu under Section 438 Cr.P.C in a case bearing FIR No.0059 dated 03.05.2019 filed under Sections 363/366-A/376-D of the Indian Penal Code and Section 6 of the POCSO Act, registered at Police Station Bullowal, District Hoshiarpur.

The present case was got registered on the statement of Jaswinder Singh, father of a girl, aged around 16 years and 03 months, alleging that on 01.05.2019, his daughter eloped with Gurpreet Singh @ Deepu, leading to the registration of the present case on 03.05.2019 and the girl was recovered on 16.05.2019.

The petitioners apprehending the arrest have come up before this Court.

Learned counsel for the petitioner *inter alia* contends that being a married and unmarried sisters and mother of the principal accused, they have not been attributed any specific role except the fact that they were instrumental at consenting to matrimonial alliance between the couple. It is contended that the girl had initially filed the protection petition bearing CRM-M No.20683 of 2013 and has placed reliance upon Annexure P-3 to hammer home the point that the boy and the girl were in a relationship and they wanted to marry against the wishes of the parents and that nothing is to be recovered from the petitioners.

The learned State counsel, on instructions from ASI

Davinder Singh, Police Station Bullowal, District Hoshiarpur, though does not differs over the facts that have been brought to the notice of this Court but has stoutly opposed the grant of interim bail on the grounds of heinousness of the offences and seriousness of the allegations.

Appreciating the stand of the two sides, admittedly, there are four accused, namely, Sandeep Kaur, Harvinder Kaur, Gurjit Kaur and Gurpreet Singh @ Deepu and admittedly, the offence under Section 376-D of the Indian Penal Code has been slapped when it is the own stand of the State and duly conceded at the bar by the learned State counsel that there is only one male in this case and, therefore, question of gang rape is put to doubt.

Keeping in view the sacrosanct relationship of the mother and the sisters, it would be preposterous to take on the face of the stand of the State, which is already harbouring under the false allegations of the gang rape. The girl has filed a protection petition against her parents as well, are sufficient to deter the Court to accept means sought to be canvassed before this Court by the learned State counsel when no evidence could be pointed out as to their specific role.

Since, nothing is to be recovered from the petitioners and being women, sending them behind the bars would be travesty of justice, the present petitions are allowed. Petitioners-Sandeep Kaur, Harvinde Kaur and Gurjit Kaur would appear before the Investigating Officer within 15 days from today and shall fully cooperate in the

investigations. On their doing so, the petitioners shall be released on interim bail to the satisfaction of arresting/investigating officer till submission of report under section 173 Cr.P.C. (challan). They shall also abide by the conditions specified under section 438 (2) Cr.P.C. Thereafter, on presentation of challan, petitioners will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

Disposed off.

23.10.2019

Neha

**(FATEH DEEP SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No