

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

CRM-M-47153-2019 (O&M)
Date of Decision:-8.11.2019

Balbir Singh @ Gholu ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. K.P.S. Virk, Advocate for the petitioner.

Mr. Ashok Singh Choudhary, Addl. Advocate General, Haryana.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.54 dated 17.6.2019 at Police Station Women, Kurukshetra under Sections 323, 452 and 506 of Indian Penal Code and under Section 8 of POCSO Act, 2012.
2. The FIR was lodged at the instance of Jogindro devi, wherein it has been alleged that on 16.6.2019 she alongwith her grand daughters slept in the courtyard after locking the door. During the night at about 2:00 AM Balbir Singh @ Gholu (petitioner) accompanied by one more unidentified person entered into their house after scaling the wall, they caught hold of her grand daughters with a bad intention and started molesting them. Upon alarm being

raised by her grand-daughters she got up and saw that the accused had held her grand daughters from their breasts and were molesting them. When the complainant confronted them, they gagged the complainant's mouth and also slapped her and threatened her to not to raise alarm. It is further alleged that the accused snatched her gold ear-rings and then ran away from the spot after scaling the wall.

3. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that infact when the statements of the prosecutrix were recorded in terms of Section 164 Cr.P.C. they have not stated a word regarding the alleged molestation. A prayer has thus been made for grant of regular bail.
4. Opposing the petition, the learned State counsel has submitted that since specific allegations have been levelled against the petitioner and infact both the victims in their statements recorded under Section 164 Cr.P.C. have categorically stated that the accused had jumped into their house, no case for grant of bail is made out.
5. I have considered rival submissions addressed before this Court.
6. The statements of the victims recorded in terms of Section 164 Cr.P.C. reads as follows:-

“Statement of Komal aged about 17 years daughter of Ashok Kumar resident of village Shadipur Shaida, District Kurukshetra

Day before yesterday on 16.06.2019, we were sleeping in the night. My mother and father were not at home. I do not know as to whether Golu came from gate or from wall. He gagged the mouth of my sister. My sister shout. I woke up and roused my grandmother. He pushed by grandmother and ran away. I say the time, it was 2 O'Clock.”

**Statement of Ritu aged about 15 years daughter of Ashok Kumar
resident of village Shadipur Shaida, District Kurukshetra**

Day before yesterday on 16.06.2019, my mother and father had gone to a marriage. I was alone in the house alongwith my sister Komal my grandmother Jagindero Devi. We were sleeping at 2:30 A.M. Balveer Singh alias Golu came in the house after scaling the gate or wall. He gagged my mouth. When I shouted, my sister and my grandmother woke up. He ran away after pushing my grandmother. One more person was there who is not known to us. He also ran away from the spot.”

7. It is worth noticing that while in the FIR, the complainant, who is the grand mother of the victims, has stated that the petitioner had molested his grand daughters and when the complainant confronted him he gagged the mouth of the complainant, but in the statement of victims recorded under Section 164 Cr.P.C. they have not averred a word regarding the alleged molestation. However, they have taken a stand that the accused had gagged their mouths i.e. the mouths of grand daughters and have not stated that they had gagged the mouth of the grandmother.
8. The learned State counsel has informed that the petitioner has been behind bars since the last more than 4 months and that challan already stands presented.
9. Having regard to the aforestated position especially while bearing in mind the statements of the victims under Section 164 Cr.P.C. and that challan already stands presented, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and it is ordered that the petitioner be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

10. It is, however, made clear that none of the observations made above shall be construed to be an expression on merits of the main case.

8.11.2019

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No