

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

CRM-M-43485-2018 (O&M)
Date of Decision:- 3.12.2019

Sonu Talwar and others ... Petitioners

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sunil Saharan, Advocate for the petitioners.

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

Mr. S.S. Mor, Advocate for the complainant.

GURVINDER SINGH GILL, J.

1. The petitioners have approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.884 dated 16.9.2018 at Police Station City Hisar, District Hisar, Haryana under Sections 354-A, 354-C, 506 and 34 of Indian Penal Code and Sections 6 and 8 of POCSO Act.
2. The FIR was lodged at the instance of Aarti, wherein it has been alleged that while her younger sister Priyanka is residing with her mother, she as well as her elder sister Komal and her younger brother Pervesh are residing with their father, who has otherwise performed a second marriage with a lady namely Diksha. It is alleged that complainant's mother resides with

complainant's maternal grandfather and maternal grandmother since the last about one and half years. It is alleged that her father usually called her in his bed-room after consuming liquor and used to touch her private parts while her uncle Monu used to make indecent gestures and her uncle Sunny also used to make advances towards her and used to call her in his bed-room. It is alleged that once, when she went to bed-room of her uncle Sunny, he started touching her from back and thighs. It is further alleged that whenever she used to take a bath, then her uncle Sunny and her father used to look through a window. It is alleged that all three of them used to threaten her that in case she disclosed about the said incidents to anybody, then she would be killed. It is further stated therein that the elder sister of the complainant i.e. Komal managed to escape and informed about the incident to her mother Kavita and it was thereafter that her mother came there with police.

3. The learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in the present case mainly on account of the fact that there had been matrimonial discord between the complainant's mother and father as petitioner No.1 i.e. father of the complainant had contracted second marriage. The learned counsel has submitted that infact it is a case where the complainant had not been residing with the petitioners and was residing with her mother in the house of her maternal grandparents since May 2017. The learned counsel, in this regard, has submitted that the complainant's mother i.e. wife of petitioner No.1 had instituted various litigations and had lodged several FIRs wherein she had herself averred that she alongwith her daughters had been residing separately from husband. The learned counsel, in this regard, has drawn the attention of this Court to a copy of FIR No.614 dated 28.6.2017 registered at Police Station Hisar City under Sections 323,

34 and 506 of Indian Penal Code (Annexure P-3), wherein it has been categorically stated by complainant's mother namely Kavita that she alongwith her three daughters had been thrown out of her matrimonial home by her husband Sonu Talwar, who had solemnized marriage with another girl namely Diksha.

4. The learned counsel has also referred to a complaint (Annexure P-4) filed by complainant's mother Kavita under Domestic Violence Act, wherein also it has been categorically stated that petitioner No.1 Sonu Talwar alongwith other members of his family had turned out Kavita and her two daughters namely Komal and Aarti from his house on 20.5.2017 and that Kavita and her daughters had been residing in parental home of Kavita since 27.6.2017. The learned counsel has submitted that the aforesaid admissions regarding separate residence of the complainant and her sister and mother would negate the allegations as levelled in the FIR and that in these circumstances, the petitioners deserve the concession of bail.
5. Opposing the petition, the learned State counsel has submitted that in view of the specific allegations levelled in the FIR, no case for grant of bail is made out. It has, however, been informed that the petitioners have since joined investigation.
6. Having regard to the facts and circumstances of the case and without making any expression as regards merits of the case and while noticing that the petitioners have already joined investigation, custodial interrogation of the petitioners is not warranted. The petition, as such, is accepted and the interim directions issued by this Court vide order dated 9.5.2019 are hereby made absolute subject to the condition that the petitioners shall join 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.

3.12.2019

pankaj

(Gurvinder Singh Gill)

Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No