

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

CRM-M-26405-2018 (O&M)

Date of Decision:- 5.9.2019

Kamaljit

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Daygeesh Kumar Bhatti, Advocate, for the petitioner.

Ms. Rashmi Attri, AAG, Punjab,
assisted by ASI Balkar Singh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of FIR No. 76, dated 14.5.2018, registered at Police Station Shahkot, Jalandhar, under Sections 376, 120-B IPC and 3/4 of POCSO Act (Section 12 of POCSO Act added later on).
2. The FIR was lodged at the instance of Neha, aged 16 years, wherein it has been alleged that her mother Kulwant Kaur had gone back to her parental village about 5 years back on account of a Panchayati

divorce by her father and that ever since she had been residing with her grand-mother Harbans Kaur and that her aunt (*bua*) Kamaljit Kaur is also residing in the same locality although her *fufar* had gone abroad. It is alleged that her mother Kulwant Kaur however, came back about 1½ months earlier and presently she along with her parents as well as her brothers and sisters were residing together in the village. It is alleged that on 6.4.2018 when she was sleeping, a boy of their locality namely Jaswant Singh entered her house and tried to wake her and due to which she called her mother and upon which the said boy ran away. It is alleged that in the morning her mother and grand-mother went to the house of Jaswant Singh where his father apologized for his mistake. It is further alleged therein that about 6 months back her *bua* had called her to her house where Jaswant Singh was already present and her *bua* told her to listen what Jaswant Singh had to say and closed the room. It is alleged that Jaswant Singh forcibly established physical relations with her. It is further stated therein that even subsequently she met Jaswant Singh at her *bua*'s residence when again he established physical relations with her.

3. Learned counsel for the petitioner has submitted that she has falsely been implicated in the present case at the instance of mother of the prosecutrix who had in fact strained matrimonial relations with her husband and admittedly had left her matrimonial home and resided at her paternal home for about 5 years. It is further submitted that in fact complainant's mother held the petitioner responsible for her

strained relations with her husband and in order to settle scores the present FIR had been lodged falsely.

4. Opposing the petition, learned State counsel has submitted that since the petitioner had facilitated the commission of a heinous crime, no case for grant of anticipatory bail is made out. It has however, been informed that the petitioner has since joined investigation and in fact investigation is complete and report under Section 173 Cr.P.C. has been finalized and likely be filed shortly.
5. Having regard to the facts and circumstances of the case and while noticing that the petitioner has already joined investigation and that the investigation is complete, in my opinion it is not a case warranting custodial interrogation. The petition, as such, is accepted and interim directions issued vide order dated 12.7.2018 are made absolute subject to the condition that the petitioner shall appear and join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.
6. The present petition stands accepted accordingly.

September 5, 2019

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No