

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(I)

CRM-M-19998-2020

ANITA

....Petitioner

Versus

STATE OF HARYANA

....Respondent

(II)

CRM-M-15880-2020

SUMAN

....Petitioner

Versus

STATE OF HARYANA

....Respondent

Date of Decision: **15.9.2020**

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. Ivneet Singh Pabla, Advocate
for the petitioner.

Mr. Karan Sharma, AAG, Haryana
assisted by ASI Mukesh.

(Proceedings conducted through video conferencing).

GURVINDER SINGH GILL, J. (ORAL)

1. This order shall dispose of aforesaid 2 petitions i.e. **CRM-M-19998-2020** filed on behalf of the petitioner-Anita seeking grant of regular bail as well as **CRM-M-15880-2020** filed on behalf of Suman seeking grant of

anticipatory bail in a case registered against them vide FIR No.223 dated 13.5.2020 under Sections 328, 376/120-B IPC at Police Station Shahabad, District Kurukshetra.

2. The FIR was lodged at the instance of prosecutrix, the translated gist of which reads as follow:-

“yesterday 12.05.2020 I went to take medicine at Government Hospital, Shahabad. Thereafter I went to Suman’s house who is resident of Shahabad, where Geeta and Anita were present. All three forcefully made me consume intoxicating cold drink. Thereafter I became unconscious. Today I regained consciousness and found myself in house of Rinku, who committed rape upon me. I ran away from there and saved my life. You are requested to take strict legal action against Suman, Geeta, Anita and Rinku.”

3. Subsequently, statement of prosecutrix was recorded on 14.5.2020 in terms of Section 164 Cr.P.C., the relevant translated gist of which reads as follow:-

“On 12.5.2020 I had gone to Government Hospital to take medicine. While on the way I met Jyoti who took me along to her home. She offered a cold drink to me at her home and upon consuming the same I felt intoxicated (dizzy). While in that state of intoxication, they applied “make up” to me. Jyoti had called 2 other ladies namely Suman and Geeta.

They took me to village Gomti. There, Rinku, husband of Suman raped me. I regained consciousness on Wednesday. I left that place on the pretext taking medicine.”

4. The learned counsel for the petitioners has submitted that it is a case where the prosecutrix has falsely implicated the accused and that infact the true facts are that the prosecutrix was about 5 months pregnant at the time of lodging of aforesaid FIR and had in fact herself voluntarily married the accused Rinku mainly for the purpose of extracting money. Learned counsel has further submitted that the photographs annexed with the petitions would clearly show that it is a case of voluntary marriage of the prosecutrix with Rinku. Learned counsel has also drawn the attention of this Court to a bill dated 13.5.2020 (Annexure P-3) pertaining to purchase of furniture by the prosecutrix which would show that she was in a fit state of mind on the day of lodging of FIR and was out shopping. Learned counsel for the petitioners has further submitted that in any case the petitioner Anita is not named in the statement recorded under Section 164 Cr.P.C. and as such deserves to be released on bail.
5. Opposing the petitions, learned State counsel has submitted that the prosecutrix recorded statement in terms of Section 161 Cr.P.C. and clarified that the name of Jyoti as mentioned in the statement recorded under Section 164 Cr.P.C. came to be recorded incorrectly and that the correct name of the said accused is in fact Anita. Learned State counsel has further informed that the prosecutrix also clarified in her said

statement that the accused Rinku was not Suman's husband but was distantly related to Suman being her '*Chacha-Sasur*'. Learned State counsel has submitted that since serious allegations have been levelled against the accused, no case for either grant of regular bail or anticipatory bail is made out. Learned State counsel, upon instructions from ASI Mukesh, has however informed that the prosecutrix was indeed pregnant at the time of lodging of FIR. Learned State counsel has further informed that Anita has been behind bars since last about 3 months and that the petitioner-Suman pursuant to interim directions issued by this Court has since joined investigation.

5. I have considered rival submissions addressed before this Court.
6. The allegations against the petitioners are broadly to the effect that they had administered a cold drink laced with some intoxicant and had taken her to village Gomti where she was raped by accused Rinku. The facts of the present case especially that the prosecutrix was already pregnant and also that the main accused Rinku is stated to be related to Suman would rather make the veracity of the allegations debatable. In any case, since the petitioner-Anita has already been behind bars since last about 3 months and the petitioner-Suman has already joined investigation, both the petition deserve to be accepted.
7. The petitioner-Anita is ordered to be released on regular bail on her furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

8. The interim directions issued by this Court vide order dated 2.7.2020 qua the petitioner-Suman in **CRM-M-15880-2020** are hereby made absolute subject to the condition that the petitioner shall appear regularly before the Trial Court and shall abide by the conditions as may be imposed by the Trial Court.
9. It is however clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

15.9.2020
Gaurav Sorot

(GURVINDER SINGH GILL)
JUDGE

Whether reasoned / speaking? **Yes / No**

Whether reportable? **Yes / No**