

S.No.108

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

CRM-M-22052 of 2020 (O&M)

Date of Decision:07.08.2020

Kulbir Singh and another

.....Petitioners

Vs.

State of Punjab

.....Respondent

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IN VIRTUAL COURT
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CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Vipin Mahajan, Advocate for the petitioners.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioner under Section 438 Cr.P.C for grant of anticipatory bail in case FIR No.157 dated 09.07.2020 registered under Sections 363, 366, 377, 376-D, 328, 451, 120-B and Section 506 IP and Section 6 of POCSO Act, 2012 at Police Station Ghuman, Police District Batala, District Gurdaspur, Punjab.

It is contended by counsel for the petitioners that the case against the petitioners is false and frivolous. The petitioners have no connection with the alleged crime. In fact, complainant had left her house with one Arshpreet Singh on the night intervening between 7th and 8th July, 2020. A DDR was got recorded in this regard. Later on, the said Arshpreet Singh and the complainant reached the house of 'Masi' of the girl, who called the family of the girl there. It is only thereafter that the present case; with allegation of rape; has been fabricated. Counsel has submitted that falsity of the matter is exposed by the very fact that the prosecutrix has named even such brother of one of the petitioners, who happen to be abroad for past more than one year. Still further, it is submitted that while making statement under Section 164 Cr.P.C., the girl had named only the above-said

Arshpreet Singh as the accused.

Notice of motion.

Mr. Hitten Nehra, Addl. AG, Punjab, accepts notice on behalf of the State.

Learned State Counsel submits that the petitioners are involved in a heinous crime of gang rape. However, it is not disputed that in the first instance, the Police had recorded a DDR on the night intervening 7th and 8th July, 2020 to the effect that the prosecutrix had run away from her house along with Arshpreet Singh. It is also not disputed that the prosecutrix herself had made a statement under Section 164 Cr.P.C wherein she had named only the above-said Arshpreet Singh as the person involved in the matter.

In view of the above submissions, but without commenting upon merits of the case, the present petition is allowed. The petitioners are granted concession of anticipatory bail. Therefore, it is directed that in case of their arrest, the petitioners shall be released on bail subject to their furnishing bail bonds/ surety bonds to the satisfaction of Arresting/ Investigating Officer. However, it is further directed that the petitioners shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

August 07, 2020
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No