

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

(I)

CRM-M-26364-2020 (O&M)
Date of Decision:-26.10.2020

Dheeraj Kumar

... Petitioner

Versus

State of Haryana

... Respondent

(II)

CRM-M-22974-2020 (O&M)

Sunil Kumar @ Sunny

... Petitioner

Versus

State of Haryana

... Respondent

(III)

CRM-M-25282-2020 (O&M)

Vikas

... Petitioner

Versus

State of Haryana

... Respondent

(IV)

CRM-M-26724-2020 (O&M)

Sukhwinder Singh

... Petitioner

Versus

State of Haryana

... Respondent

(V)

CRM-M-52915-2019 (O&M)

Karan Sharma

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Karanvir Singh Khehar, Advocate,
for the petitioner(s) in CRM-M-26364-2020;
CRM-M-25282-2020 and in CRM-M-26724-2020.

Mr. Deepak Singh Saini, Advocate,
for the petitioner in CRM-M-22974-2020.

Mr. Anirudh Kush, Advocate,
for the petitioner in CRM-M-52915-2019.

Mr. Karan Sharma, AAG, Haryana.

GURVINDER SINGH GILL, J.**CRM-25366-2020 in CRM-M-52915-2019**

In view of the reasons mentioned in the application, the same is allowed and hearing of the main petition i.e. CRM-M-52915 of 2019 is preponed from 27.11.2020 and is taken on board today along with other connected cases which are already fixed for today.

Main cases

1. This order shall dispose of the aforesaid five petitions filed on behalf of the petitioners namely Dheeraj Kumar, Sunil Kumar @ Sunny, Vikas, Sukhwinder Singh and Karan Sharma seeking grant of regular bail in a case

registered vide FIR No.41 dated 21.7.2018 under Sections 328/342/506/376-D/120-B/370 IPC and Sections 3/4/5/5A/5B/5C/6/7/9 of Immoral Traffic (Prevention) Act, 1956 at Police Station Women, District Panchkula.

2. The FIR in question was lodged at the instance of the victim wherein it is alleged that the husband of the victim is a labourer and that on 15.7.2018 Sunny (petitioner Sunil Kumar), who knew the victim's husband told her husband that he would provide some work to the victim at his farm house and that the victim would be required to do cleaning and kitchen work at the farm house and he would pay an amount of ₹12,000/- per month. It is alleged that Sunny also assured that he would also arrange for a job for victim's husband. The victim alleged that she went to the farm house of Sunny (petitioner) where she was administered some drug and was raped while in a state of unconsciousness. When the victim regained consciousness, she asked the accused to call her husband but they did not call her husband and also snatched her mobile phone. It is further alleged that aforesaid Sunny used to bring 10-12 persons every day who were known to him and they used to commit rape upon her and she was kept in a locked room. It is alleged that on 18.7.2018, nine persons committed rape upon her out of which two were police officials and that she could identify all of them. The complainant alleged that she somehow managed to escape from the farm house and went to Panchkula and narrated the entire incident to the police.
3. The learned counsel for the petitioners have submitted that they have falsely been implicated in the present case and that there is no evidence worth credence to establish the allegations of rape against the petitioners. It has

further been submitted that in fact the medical evidence also does not support the case of the prosecution at all and that no injury whatsoever was found on the private parts of the victim which would render the case of the prosecution highly doubtful as it is the case where the victim alleges that she has been repeatedly gang raped by dozens of persons. The learned counsel for the accused have further submitted that apart from Sunny (petitioner) no other accused is named in the FIR and all of them are nominated on the basis of alleged call detail records which as per prosecution show that the accused were in vicinity of the place where the victim was allegedly gang raped.

4. Opposing the petition, the learned State counsel has submitted that it is a racket which was being run from a guest house, being run by the petitioner Sunny and that infact the guest house was being used for carrying out the nefarious activities of prostitution. The learned State counsel has further submitted that while Sunny is named in the FIR, the other accused have been nominated on the basis of call detail records and on the basis of identification made by the victim. The learned State counsel has, however, informed that the petitioners have been behind bars since the last about 2 years and 4 months.
5. I have considered rival submissions addressed before this Court.
6. As far as the petitioner Sunil Kumar @ Sunny is concerned, not only he is specifically named in the FIR but the fact that he was running the guest house in question where the victim was gang raped would clearly show his complicity. Given the seriousness and the nature of allegations, he certainly does not deserve the concession of bail. The bail application qua the petitioner Sunil Kumar @ Sunny, as such, is dismissed.

7. As regards the remaining petitioners namely Dheeraj Kumar, Vikas, Sukhwinder Singh and Karan Sharma, none of them is specifically named in the FIR and have been nominated as accused on the basis of call details record which shows their presence in the vicinity of the guest house where the offence had taken place. The said accused are also stated to have been identified later by the victim. In any case, the case of the petitioners would be on a different footing from that of main accused Sunil Kumar and it would be debatable as to whether the allegations of rape against them would be made out against them merely on the basis of their presence as depicted from the call details record or as to whether they are only liable for having committed an offence under Immoral Traffic (Prevention) Act, 1956. In any case, since they have been behind bars since the last 2 years and 4 months, further detention of the said petitioners would not serve any useful purpose. Consequently, the petitions qua the petitioners namely Dheeraj Kumar, Vikas, Sukhwinder Singh and Karan Sharma are accepted and the said four petitioners namely Dheeraj Kumar, Vikas, Sukhwinder Singh and Karan Sharma are hereby ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
8. It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

26.10.2020

kamal

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No