

Sr. No.209

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

**CRM-M-27312 of 2020 (O&M)
DATE OF DECISION : 23.09.2020**

Gurpreet Singh @ Guri

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Gaurav Sharma, Advocate,
for the petitioner.

Mr. V.G. Jauhar, DAG Punjab.
(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

1. Petitioner seeks regular bail in FIR No. 70 dated 02.10.2019, registered under Section 376, 366(A) and 343 IPC and under Section 4 of the Protection of Children from Sexual Offences Act, 2012(Sections 376-D and 6 of POCSO Act were deleted), Police Station Sehna, District Barnala.
2. FIR in this case was registered on the complaint of prosecutrix herself, made on 02.10.2019. It was informed to the police that when the prosecutrix was going towards market in the morning of 29.09.2019, four persons came in a car. Three of them were, one Gurpreet Singh (present petitioner), Gosa Singh and Sunny Singh and one unidentified person. All of them kidnapped her and took her to an abandoned school building. First she was raped by petitioner, followed by Gosa Singh and Mani Singh and then by the unidentified person. She was tied with a rope. They kept on raping her next day as well. On the night of 01.10.2019, on finding an opportunity, she ran away from the building and informed the matter to her parents and all of them came

to the police station to lodge the FIR. The petitioner who was found admitted in the hospital in an injured condition and was arrested on 04.10.2019.

2. Learned counsel for the petitioner submits that petitioner, a young boy of 22 years, was known to the petitioner being from the same village. Both of them developed intimacy, which was not acceptable to the family of prosecutrix. Prosecutrix herself had joined the petitioner and this fact is apparent from the fact that after she went allegedly missing on 29.09.2019, no missing report was made to the police by the parents of the prosecutrix. He further submits that the parents and other family members of prosecutrix had mercilessly beaten petitioner and refers to MLR(Annexure P-3). The petitioner suffered fracture in both his legs and was admitted in government hospital. He further submits that qua this incident, on the basis of statement of petitioner case FIR No. 71 dated 10.10.2019(Annexure P-2) was registered against the family members of prosecutrix. He further submits that medical evidence in this case belies the version of the prosecutrix.

3. Learned counsel submits that version of prosecutrix of having been raped by other accused was found false and they were exonerated by the police during enquiry and in support refers to enquiry report (Annexure P-4). Thus, no sanctity could be attached to the version of the prosecutrix, he argues.

4. He further submits that prosecutrix has been examined and now there is no apprehension of petitioner tampering with evidence or influencing the prosecutrix.

5. Learned State counsel, on the other hand, opposes the bail plea. According to him, there is no material on record to prove that prosecutrix was having any relations with the petitioner. He submits that enquiry report(Annexure P-4) is not sustainable at this stage, once the Court has now summoned the co-accused under Section 319 Cr.P.C. He, however, admits that

on the basis of complaint of petitioner, family members of prosecutrix had been booked in a case of assaulting the petitioner and after examination of prosecutrix during trial, there is no further headway due to Covid-19 pandemic.

4. The petitioner is in custody for about a year. Whether or not prosecutrix and petitioner had an affair, as alleged, and other contentions of learned counsel for the petitioner are to be adjudicated during trial only. Presently, there is no head way in the trial due to ongoing Covid-19 pandemic where the Courts are working with restriction and taking up only urgent matter. The prosecutrix has already been examined, as such there is no likelihood of the petitioner to hamper or tamper with the evidence. Accordingly, given the over all scenario, I am of the opinion that no useful purpose would be served by keeping petitioner in custody any more.

5. Taking wholesome view of the matter, but without expressing any opinion on the merits of the case, at this juncture, the petitioner is admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/ Duty Magistrate, as the case may be. It is, however, directed that the petitioner will not visit the place where the prosecutrix is residing and he will not make any attempt to influence/ approach any of the witnesses relating to the case.

6. Petition stands allowed accordingly.

September 23, 2020
Jiten

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No