

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

CRM-M-30898-2020 (O&M)

Date of decision: 04.11.2020

Mamchand @ Dhola

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Atul Lakhanpal, Senior Advocate, with
Mr. Arjun Lakhanpal, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

The petitioner has filed this second petition under Section 438 of Cr.P.C. for grant of pre-arrest bail in case bearing FIR No. 249 dated 15.06.2020 registered under Sections 363, 366-A, 506 IPC and Section 4 of the Protection of Children from Sexual Offences (POCSO) Act, 2012, at Police Station Thanesar City, District Kurukshetra.

Learned Senior counsel for the petitioner states that the complainant and his family members were living on rent in the house of the petitioner and when they were asked to vacate the same, a fake complaint dated 30.03.2020 was lodged against the petitioner stating therein that daughter of the complainant had been abducted by the petitioner and under the threat of the said complaint, an amount of Rs. 5,00,000/- was deposited by the petitioner in the account of the complainant's brother and his son

through RTGS, whereupon the said complaint was withdrawn.

It is further argued that a false case bearing FIR No. 378 dated 10.04.2020 under Sections 363, 366 IPC was got registered against the petitioner at Police Station Thanesar City, Kurukshetra, alleging therein that the daughter of the complainant had been abducted and under the threat of arrest and loss of reputation, a sum of Rs. 10 lakh was paid on demand. Thereafter, the complainant and his family members gave an affidavit that they did not want any action against the petitioner. By blackmailing the petitioner, a sum of Rs. 50 lakh has been taken by the complainant and when the demand of more money was not fulfilled, the present FIR has been registered.

It is still further argued that the victim in her statement recorded under Section 164 Cr.P.C. before the learned Magistrate, did not support the prosecution version and she had even refused from getting herself medically examined. Moreover, a cross-case for the offences under Sections 370, 370-A, 384 and 389 IPC and Section 6 of the POCSO Act stands registered against complainant Suresh Kumar, his brothers Hawa Singh and Krishan Lal and Vishal Singh son of Hawa Singh, for having been involved in a flesh trade and thereby extracting the money.

Reply filed by way of affidavit of DSP, Kurukshetra is taken on record.

Learned State counsel submits that there are specific allegations against the petitioner and to this effect the statement of victim has also been recorded. Record relating to CCTV footage from Aman Hotel has also been taken into possession by the investigating agency and on the basis of CD and

record of the hotel, Sections 370, 389 IPC and Section 6 of the POCSO Act were added, as the petitioner had sexually assaulted the victim. The said place of occurrence was duly identified and demarcated by the victim.

It is further argued by the learned State counsel that after recording the statement under Section 164 Cr.P.C., the victim again recorded statement under Section 161 Cr.P.C. before the investigating agency stating therein that the petitioner took her to Aman Hotel and had committed rape upon her. The mother of the victim also recorded her statement on these lines.

As per the investigating agency and their investigation till date, the victim was minor on the date of alleged occurrence. Though a criminal case has also been got registered against the father of the victim and others yet the case stands tall against the petitioner as he had sexually assaulted the victim, who is minor.

Keeping in view of the gravity of offence, the custodial interrogation of the petitioner is necessary.

Therefore, I do not find any ground to grant him the concession of pre-arrest bail.

In view of the above, the present petition is dismissed.

(HARNARESH SINGH GILL)
JUDGE

04.11.2020
Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No