

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

CRM-M-35122-2020 (O&M)

Date of decision: 16.11.2020

Sona Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Dhruv Gupta, Advocate for the petitioner.

Mr. Dhruv Dayal, Sr. DAG, Punjab.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

Status report along with documents filed by State counsel be taken on record.

This petition for pre-arrest bail has been filed by petitioner Sona Singh, aged about 32 years, an accused in FIR No.31 dated 12.05.2020, for an offence under Section 376 IPC and Section 4 Protection of Children from Sexual Offences Act, 2012, registered with Police Station Bhindi Saidan, District Amritsar (Rural).

Briefly stated facts of the case as per prosecution version are that, criminal machinery in this case was set into motion by complainant Jasvir Kaur @ Veero wife of Balwinder Singh, aged about 32 years, who in her statement made to the police stated that she had given birth to four children from her wedlock with Balwinder Singh; out of those, 03 happen

to be boys and one girl, aged about 15 years (name withheld, referred to as prosecutrix/victim); for the last about 03 years, accused Sona Singh who is residing opposite of house of the complainant; used to tease the victim while she would go to school and return therefrom; they had lodged a complaint with parents of Sona Singh in that regard also; on 05.05.2020 at about 5.00 AM, the victim returned home and she was weeping at that time; on being enquired by the complainant, the victim stated that at about 3.00 AM in the morning while she had got up for going to washroom, she heard noise of a piece of stone hitting gate of their house; as such, she went out and found Sona Singh standing there and while she was about to raise alarm, then Sona Singh caught hold of the victim from her right hand, gagged her mouth and dragged her inside his house, there he had forcible intercourse with the victim; the victim got herself freed and returned home; inter alia in the statement, the complainant stated that since matrimonial alliance of the victim had been finalized some time back, as such, they did not disclose the incident to any person earlier but thereafter, had informed the police; after registration of the FIR, the investigation in the case started.

Apprehending his arrest in this case, petitioner Sona Singh had approached the Court of Sessions at Amritsar, seeking pre-arrest bail. His such petition was assigned to Addl. Sessions Judge (FTC), Amritsar, who vide order dated 21.09.2020, dismissed the same. Feeling aggrieved, the petitioner has knocked at the door of this Court, praying for grant of similar relief, which request is being opposed by the State counsel.

I have heard learned counsel for the parties besides going

through the record.

Learned counsel for the petitioner has argued that the prosecution version is improbable; there is a delay of about 07 days in lodging the FIR, which has not been explained; the case is result of political rivalry; the matter has been compromised between the parties on 29.07.2020, wherein complainant Jasvir Kaur @ Veero has admitted that nothing wrong has been done by the petitioner with her daughter-the victim and further, no MLR of the victim is there to show that she had been raped. As such, the petitioner deserves to be granted pre-arrest bail.

Whereas, learned State counsel has vehemently controverted such contentions.

After hearing rival contentions, I find that the allegations against the petitioner are very grave and serious of raping a minor girl. It needs to be mentioned here that while determining the entitlement of accused to grant pre-arrest bail, merits of the case are not to be looked into minutely, since it is prerogative of the trial Court. The pleas raised by learned counsel for the petitioner that there has been delay of about 07 days in lodging of the FIR, that the prosecution story is improbable or that it is a result of political rivalry etc., may be taken into consideration and dealt with by the trial Court at appropriate stage but those are not of much significance while disposing of the instant petition for grant of pre-arrest bail. Furthermore, the offences are not only of grave and serious type but also are non-bailable and non-compoundable. Such offences are not to be taken as having been committed against a particular individual but against the society at large. The plea raised that the matter has since

been compromised between the petitioner and complainant rather than helping the petitioner in these proceedings or during trial would certainly harm his interest, showing that while being running away from the process of law, he is making every attempt to tamper with the prosecution evidence, may be by giving threat, inducement or other allurements. Custodial interrogation of the petitioner is found to be necessary for complete and effective investigation. In case, the same is denied to the investigating agency that shall leave many gaps and loopholes, adversely affecting the investigation, which is uncalled for. Thus, keeping in view the totality of circumstances, no ground for grant of pre-arrest bail to the petitioner is made out. The petition so moved by him in that regard stands dismissed accordingly.

16.11.2020

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No