

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

218

CRM-M-41738-2020 (O&M)**Date of Decision: 16.12.2020**

Gurmail Singh @ Kala

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Brijender Kaushik, Advocate, for the petitioner.

Mr. Ramesh K. Ambavta, AAG, Haryana,
assisted by ASI Gyan Chand.*(proceedings conducted through video conferencing)***GURVINDER SINGH GILL, J. (Oral)**

1. The petitioner has approached this Court seeking grant of regular bail in respect of a registered vide FIR No.210 dated 28.09.2018 at Police Station Mullana, District Ambala, under Sections 376, 328, 506 IPC and Section 3 of the SC & ST Act.
2. It is alleged that the father of the prosecutrix used to work as a labourer in the petitioner's house and that the accused also used to visit family of the prosecutrix on occasions of marriage etc. It is alleged that on 26.09.2018, when the prosecutrix came out of her college at about 2.00 PM, she met the accused/petitioner outside the college, who was present in his car and who offered to drop the prosecutrix at her home. The prosecutrix having faith in the

petitioner sat in his car. It is further alleged that the accused/petitioner offered her cold drink and upon consuming the same, the prosecutrix felt giddy and upon which the petitioner took her to a '*dera*' nearby and committed rape upon her.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that in fact it is a case where the father of the prosecutrix, who used to work as a labourer in the petitioner's house, had borrowed some money and when the petitioner demanded the said money, he has been falsely implicated in order to avoid said payment. It has been submitted that the factum of father of prosecutrix being a labourer and having worked in the house of the petitioner is admitted in the FIR itself. It has further been submitted that the factum of petitioner having extended financial help to father of prosecutrix is also admitted by prosecutrix as well as by her father during the course of their cross-examination, when they were examined as PW-1 and PW-4. It has been submitted that the story as presented in the FIR that the prosecutrix, who is a major, was taken to a '*dera*' in broad daylight and was raped without attracting attention of anybody is highly unbelievable.
4. Opposing the petition, the learned State counsel has submitted that since there are specific and categorical allegations of rape in the FIR and that the report of the FSL also confirms the presence of spermatozoa on clothes of prosecutrix, no case for grant of bail is made out. The learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 2

years and 2 months and that the material witnesses including the prosecutrix and her father and also the Doctor already stand examined. It has been informed that the petitioner is not involved in any other case.

5. Having regard to the facts and circumstances of the case especially that the petitioner has been behind bars since the last about 2 years and 2 months and that material witnesses have already been examined and that the petitioner is not stated to be involved in any other case, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

16.12.2020
Vimal

(GURVINDER SINGH GILL)
JUDGE

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