

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

217

CRM-M-5091-2021 (O&M)**Date of Decision: 10.02.2021**

Harjinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Ms. Manpreet Kaur, Advocate, for the petitioner.

Mr. Sidakmeet Singh, AAG, Punjab,
assisted by ASI Gurdev Singh.*(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 case registered against him vide FIR No.239 dated 30.08.2020 at Police Station Samana, District Patiala, under Sections 376, 511, 342, 120-B IPC and Sections 12 & 18 of the POCSO Act.
2. The FIR was lodged at the instance of the prosecutrix, aged about 15 years, wherein it is alleged that she resides with her aunt (*bua*) Parwinder Kaur and that another of her aunt (*mami*) namely Ajit Kaur also resides with them. Since her *mama* (maternal uncle) Amrik Singh is a drunkard, therefore, her *mami* Ajit Kaur frequently visited *Baba ji*. It is alleged that one lady had recommended to her maternal aunt that Baba Harjinder Singh could treat and get rid of all her miseries and on account of which

complainant's *mami* got acquainted with Baba Harjinder. It is alleged that Baba Harjinder asked her *mami* to get some unmarried girl so as to appease "*Devi Mata*". Being taken in by the said representation, her aunt agreed to take the complainant to said Baba. Baba Harjinder Singh informed that he along with Darshan Singh, ex-Sarpanch, would pick them up in a car. Consequently, the complainant, her *bua* (paternal aunt) Parwinder Kaur and her *mami* (maternal aunt) went with them to Kissan Feed Factory where the owner of the factory namely Suresh @ Pappi was also present and the said three persons took them inside and closed the door of the factory. It is alleged that Darshan Singh, Ex-Sarpanch, Baba Harjinder Singh, Nachhattar Singh and Davinderpal Singh took the complainant inside a room wherein one unknown person, who was being addressed as *Baba ji* was present. The said *Baba* sent Darshan Singh and Harjinder Singh out of the room and bolted the room from inside and asked the complainant to take off her shirt and upon her refusal, forcibly took off her shirt and also the trouser and started touching her in an obscene manner and attempted to establish physical relations with her. The complainant however, pushed the *Baba* aside and ran out of the room. It is alleged that thereafter by making an excuse, they went away from the factory. Subsequently, they came to know the name of said *Baba* as Akram Khan.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that the falsity would be evident from the fact that when the statement of the victim was

recorded in terms of Section 164 Cr.P.C., she did not utter a single word against the petitioner and in fact has not even named him.

4. Opposing the petition, learned State counsel has submitted that since serious allegations have been levelled in the FIR and that it was pursuant to a false representation made by the petitioner that the victim and her aunt accompanied him to the factory where *Baba Akram Khan* made an attempt to rape the victim, no case for grant of bail is made out. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 5 months and is not wanted in any other case.
5. I have considered rival submissions addressed before this Court.
6. No doubt, the petitioner is named in the FIR, but his name is conspicuously missing in the statement of the prosecutrix recorded in terms of Section 164 Cr.P.C. Even as per the FIR, it is not the petitioner, who had made any attempt to rape the victim. The petitioner in any case has been behind bars since the last about 5 months and challan already stands presented. In these circumstances, further detention of the petitioner will not serve any useful purpose as the conclusion of trial will take some time. 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.

10.02.2021
Vimal

(GURVINDER SINGH GILL)
JUDGE

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