

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

104

CRM-M-9503 of 2021

Date of decision:15.3.2021

Satnam Singh and another

... Petitioners

versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.Karanjit Singh, Advocate,
for the petitioners
Mr.S.S.Deol, DAG, Punjab
Mr.Umesh Kumar Kanwar, Advocate,
for respondents no.2 and 3
...

AMOL RATTAN SINGH, J. (Oral)

Case heard via video conferencing.

On 1.3.2021, the following order had been passed by this
court:-

“Case heard via video conferencing.

*By this petition, the petitioner seeks the concession of
'anticipatory bail' under the provisions of Section 438 of the
Cr.P.C., upon FIR no.7, dated 12.01.2021, having been
registered at Police Station Kiratpur Sahib, District Rupnagar,
alleging therein the commission of offences punishable under
Sections 363 and 366 of the IPC, with Sections 354 of the IPC
as also Section 10 of the POCSO Act added later.*

*Learned counsel for the petitioners points to Annexure
P-4 which is seen to be a compromise deed shown to be*

entered into between the prosecutrix and the petitioners (as also other co-accused), but with it seen that the prosecutrix is only 16 years old.

In fact, in the petition filed by some co-accused of the petitioners, seeking quashing of the FIR itself on the basis of such compromise (CRM-M-4484 of 2021), the following order had been passed by this court on 16.02.2021:-

“Case heard via video conferencing.

Learned counsel for the petitioner would address arguments, firstly, as to why the FIR in question should be quashed on the basis of any compromise allegedly reached between the petitioners and the minor girl (prosecutrix), looking at the nature of the allegations, with him further to address arguments as to whether she, being a minor, would be in any capacity to actually enter into in any such compromise on the basis of which any FIR can be quashed.

Adjourned to 26.04.2021.”

Learned counsel submits that the present petition is only one by which the petitioners seek anticipatory bail and with the prosecutrix not being aggrieved of the matter, they should be admitted to such bail.

Learned counsel also points at this stage to the fact that though the 16 year old respondent no.2s' father is not actually

a party to the compromise deed, however his signatures are also also available on the said deed alongwith his daughter (which at least prima facie would appear to be so).

Notice of motion.

Mr. Ramdeep Partap Singh, learned DAG, Punjab, accepts notice on behalf of the respondent State at the asking of the court and seeks time to take instructions.

The father of respondent no.2, i.e. Shafi Mohammed (parentage not known presently), resident of village Beli (Belian), Tehsil and District Rupnagar, is ordered to be impleaded as respondent no.3 in the petition, with the Registry directed to carry out the necessary correction in the memo of parties.

Notice be issued to respondents no.2 and 3, returnable on 03.03.2021.

In the meanwhile, learned State counsel would take instructions from a gazetted officer as to whether any medical examination of the girl was done because a reading of the FIR prima facie does not show any actual sexual assault, with learned counsel for the petitioners specifically also arguing to that effect.

To be shown in the urgent motion list.”

Thereafter, on 3.3.2021, the following order was passed:-

“Case heard via video conferencing.

Pursuant to the order dated March 01, 2021, today learned State counsel has taken instructions and in fact read out from the statement of the prosecutrix, recorded under the provisions of Section 164 of the Cr.P.C., that she was forcibly taken by the petitioners and their co-accused Harjeet Singh @ Happy in a Bolero vehicle and that they forcibly tried to establish physical relation with her, with the said Happy also stated to have (as alleged) beaten her, but with her thereafter dropped at Ghanauli.

He also submits that there was a medical examination carried out, but that no external mark of injuries found on her person.

However, this being a petition seeking anticipatory bail in such a situation, with counsel for the petitioners submitting that the matter has been compromised by the petitioners with the minor prosecutrix and her father, this court would not admit the petitioners to interim bail until the father makes a statement to the effect that the matter has been settled between the parties wholly of their own will. Towards that purpose, notice of motion be issued to respondents no.2 and 3, returnable on 15.03.2021.

Both the respondents be served, other than by normal process upon process fee being deposited, also through the SHO, Police Station Kiratpur Sahib, District Rupnagar.

To be shown in the urgent motion list.”

Today, respondents no.2 and 3, i.e. the prosecutrix and her father, have appeared before this court (via video conference from the chamber of learned counsel), and upon queries put to each of them in turn, they have submitted that they have actually compromised the matter with all the persons accused in the FIR without any pressure or coercion.

Upon specific query to learned counsel for the said respondents, he submits that no rape actually took place as per the prosecutrix.

Learned counsel for the petitioners submits that even a perusal of the FIR shows that there was no instance of actual sexual misconduct and that it would obviously be seen that the girl could not have been forced on to the motorcycle herself outside her house and therefore she went voluntarily with the boys.

Having considered that argument, even if it is presumed that the 15 year old girl went with one of the boys, (i.e. Happy, the petitioner in CRM-M-9593 of 2021), voluntarily, as to why the other accused, i.e. Satnam Singh, Parveen Kumar, Kaku and Ricky, who have been named in the FIR, subsequently joined them, with learned counsel for the petitioners on specific query put to him by this court submitting that their ages are between 24 to 27 years, is something which this court would not be able to digest.

Consequently, without making any comment on the actual merits of the case, I do not think this is an appropriate case where adult

boys/men between the age of 24 to 27 years can be admitted to anticipatory bail in the case of a girl 15 years of age, even if it is presumed that she went voluntarily with one of them.

Hence, this petition is dismissed.

15.3.2021
pk

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No