

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

**CRM-M-9767-2021 (O&M)
Date of Decision: 05.03.2021**

Lovepreet Singh @ Billa

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. L.S.Sekhon, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab.
assisted by SI Maghar 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.152 dated 19.08.2020 at Police Station Nihal Singh Wala, District Moga, under Sections 363/366-A/376/120-B IPC; Section 6 of POCSO Act and Section 3 of the SC&ST Act.
2. The FIR was registered at the instance of Manjeet Kaur, wherein it is alleged that on 19.08.2020, when she alongwith her daughters Palwinder Kaur and Karamyog Kaur were going from their village towards Green Colony for doing the work of domestic help and were near the bus-stand of the village, then Sahildeep Singh, who was a co-villager, came on a motor-cycle and stopped the same and told the complainant that he was going towards Nihal Singh Wala

and offered that he could drop the complainant's daughters at *Mandi* of Nihal Singh Wala. The complainant reposing faith in Sahildeep Singh sent her daughters along with him on his motorcycle. Later when the complainant reached at the house where she was working, she found that her daughters had not reached there. After about 2 hours, her daughters reached and when she asked about the reason for delay, she found that her daughter Karamyog Kaur was terrified. Upon her asking, Karamyog Kaur disclosed that Sahildeep had taken her as well as Palwinder Kaur to some unknown place where Charna Singh and Billa Singh were already present. Charna Singh and Sahildeep Singh forcibly took them inside the house. While Billa Singh kept guarding the gate, it is alleged that Charna Singh took her inside a room where he removed her clothes and committed rape upon her.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and even if the allegations as levelled in the FIR are taken to be correct, still the only role attributed to him is that he remained outside guarding the gate and that no overt act in respect of allegation of rape or of anything against the modesty of the prosecutrix has been attributed to the petitioner. Learned counsel for the petitioner has further submitted that even in the supplementary statement of complainant Manjeet Kaur (Annexure P-2), no allegation in respect of the alleged rape has been levelled against him. Learned counsel has also drawn the attention of this Court to the statements of Karamyog Kaur and Palwinder Kaur recorded under Section 164 Cr.P.C., wherein also

no allegation of rape has been levelled against the petitioner. Learned counsel has also referred to the report of the FSL dated 18.11.2020 (Annexure P-5) as per which no human semen or male DNA was detected on Exhibits A-3 and A-4 i.e. vaginal swabs of the victim.

4. Opposing the petition, learned State counsel has submitted that since the petitioner is specifically named in the FIR and had played an active role in ensuring that the co-accused commit rape upon the victim and had guarded the premises where such offence was being committed, 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 6 months and is not involved in any case and that as on date none out of the cited 18 PWs has been examined.
5. I have considered rival submissions addressed before this Court.
6. Keeping in view the fact that the petitioner is not attributed any overt act as regards the commission of rape, which is alleged to have been committed by the co-accused Charna Singh and while also noticing that the petitioner as on date has been behind bars since the last about 6 months and is not involved in any other case and that the conclusion of trial is likely to consume time since till date not even a single PW has been examined, 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 their furnishing bail bonds/surety bonds to the

satisfaction of learned trial Court/Chief Judicial Magistrate/Duty
Magistrate concerned.

05.03.2021
Vimal

(GURVINDER SINGH GILL)
JUDGE

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