

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(205)

CRM-M-30076-2021(O&M)

Date of Decision: 21.09.2021

Sukha Singh & others

--Petitioners

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. D.J. Bhorawal, Advocate for the petitioners.

Mr. M.S. Nagra, A.A.G., Punjab.

RAJESH BHARDWAJ.J (Oral)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

CRM-29238-2021

Present application has been filed seeking amendment of the Head Note and Prayer Clause of the main petition.

In view of the averments made in the application, same is allowed and entry regarding deletion of Sections 3 and 4 of POCSO Act and addition of Section 12 of POCSO Act be made in the Head Note and Prayer Clause of the petition.

Main Petition

Present petition has been filed under Section 438 Cr.P.C seeking grant of anticipatory bail to the petitioners in case FIR No.24 dated 28.2.2021 registered under sections 354, 354-D, 452, 506, 149, 427 I.P.C and sections 3, 4 of the POCSO Act (Sections 3 & 4 of POCSO Act deleted and Section 12 of POCSO Act added later on) at Police Station, Nehianwala, District Bathinda.

Learned counsel for the petitioners contends that petitioners have been falsely implicated in the present FIR and no offence, as alleged, is made out against them. It has been contended that the present FIR was lodged by the victim herself, who is about 17 years of age. As per the allegations in the FIR the victim had been going to play Hockey in the ground of Girls School, where the co-accused Jaswinder Singh used to keep an evil eye on her and issue threats that in case she did not marry him, he would ruin her family. The matter was reported to the MC Manoj Kumar by the mother of the victim, however, it was of no help. It was alleged that on 27.2.2021 the accused Jaswinder Singh @ Jassi, Kalu, Lovely, Sukha and Manga entered the house of victim and issued threats to her mother that if she did not perform marriage of her daughter with Jaswinder Singh, they would kill them. Thereafter, again on 28.2.2021 when the victim was present with her mother at her house, all the aforementioned accused entered their house and committed dirty acts and vandalized their house. The matter was reported to the police. The present FIR was lodged with a request to take the legal action against the culprits. The petitioners approached the learned Addl. Sessions Judge, Bathinda for the grant of anticipatory bail, who declined the same vide order dated 30.4.2021. Aggrieved by the same the petitioners have approached this Court.

Notice was issued and the State was directed to file a status report which has been placed on record.

Learned counsel for the petitioners has vehemently contended that the main accused is Jaswinder Singh, who has been arrested, whereas all the three petitioners are innocent and no case for their custodial interrogation is made out.

Learned State counsel has opposed the submissions made by learned counsel for the petitioners and has drawn the attention of this Court to the status report filed, wherein the petitioners have been alleged to have committed a serious offence and prayed that their custodial interrogation is required.

I have heard learned counsel for the parties at length and have gone through the records made available.

It is evident that the victim is a minor and about 17 years of age. She is the author of the FIR, wherein all the present petitioners have been attributed a specific role in outraging her modesty and vandalizing her house. The status report filed by the State would show that the statement of the victim was also recorded under Section 164 Cr.P.C, wherein again she had reiterated her allegations made in the FIR. However, on 20.4.2021 vide Diary No.35 Sections 3 and 4 of POCSO Act were deleted and Section 12 of POCSO Act was added. There are in all 5 accused of which 2 have been arrested, whereas all the 3 petitioners are still at large.

In view of the facts and circumstance of the case and looking in to the gravity of offence, this Court finds that the petitioners do not qualify on the anvil of the parameters of Section 438 Cr.P.C. The role of the petitioners at this stage cannot be distinguished from that of the co-accused, who are already behind bars.

In the facts and circumstances of the case, custodial interrogation of the petitioners would be required. Hence, the present petition being devoid of any merit is dismissed.

(RAJESH BHARDWAJ)
JUDGE

21.09.2021

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