

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****(I) CRM-M-30454-2020 (O&M)**

Irfan @ Lambu & another ...Petitioners

Versus

State of Haryana ...Respondent

(II) CRM-M-4401-2021 (O&M)

Najama & another ...Petitioners

Versus

State of Haryana ...Respondent

Date of Decision: 09.02.2021**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present: Mr. Sushil Jain, Advocate, for the petitioners.

Mr. Ramesh K. Ambavta, AAG, Haryana,
assisted by ASI Satish.

Mr. Mohit Rathee, Advocate, for the complainant.

*(proceedings conducted through video conferencing)***GURVINDER SINGH GILL, J. (Oral)**

1. This order shall dispose off the aforesaid two petitions i.e. CRM-M-30454-2020 filed on behalf of Irfan @ Lambu and Aarif as well as CRM-M-4401-2021 filed on behalf of Najama and Sameena seeking grant of regular bail in respect of a case registered against them vide FIR No.589 dated 12.10.2019 at Police Station City Sonipat, District Sonipat, under Sections 354-B, 354-C, 363, 366, 506, 120-B IPC and Section 6 of the POCSO Act.

2. The FIR in question was lodged at the instance of Anju, wherein it is alleged that she is a law abiding girl and is a student of 6th Class studying in Government School and that her date of birth is 13.10.2007. It is alleged that the accused Irfan @ Lambu S/o Jaurur; Khan S/o Meena; Irfan and Aarif are criminal type of persons, who have been involved in various criminal cases of theft, intoxication etc. It is alleged that on 20.09.2019, when she was going to school, the aforesaid 4 persons restrained her and took her to a place abutting police line so as to commit rape upon her. They tore her clothes. It is further alleged that although Aarif was residing nearby, but he remained a mute spectator and did not make any attempt to save her. When she raised alarm, several other persons gathered at the spot and the accused ran away from there. It is alleged that previously also accused Irfan @ Lambu S/o Jaurur; Khan S/o Meena and Irfan had committed a similar wrong, but she managed to save herself and on yet another occasion, they had done a similar act and on account of which she stopped going to school. It is alleged that Sameena and Najama extended threats to her so as not to disclose about the incident to anyone. She disclosed about the entire incident on 25.09.2019 to her family and thereafter a complaint was submitted to the SHO City.
3. Learned counsel for the petitioners has submitted that the FIR has been lodged on the basis of false allegations and that even the lady members of the family of the accused have not been spared. It has further been submitted that the mother of the complainant is into drug trafficking and that an FIR under NDPS Act has already been

registered against her and she has been trying to force Khan Mohd. to sell the narcotics and upon his refusal to do the same, she had used her young daughter to lodge the instant FIR.

4. Opposing the petition, learned State counsel assisted by counsel for the complainant has submitted that since it is a case where the victim is a minor and she has levelled specific and categoric allegations against the petitioners, no case for grant of bail is made out. Learned State counsel has submitted that the conduct of the petitioners does not warrant any leniency inasmuch as after the present FIR, Sameena and Najama had attacked the victim so as to pressurize her and in respect of which one FIR was also lodged and upon investigation, the challan has also been presented.
5. I have considered rival submissions addressed before this Court.
6. Though the allegations are very specific and categoric to the effect that the petitioners Irfan @ Lambu and Aarif along with their co-accused had attempted to commit rape upon the complainant, but at the same time this Court finds that the veracity of the allegations is yet to be established inasmuch as the allegations pertain to an attempt to rape made in broad day light and that too in an open area. The petitioners, namely, Irfan @ Lambu and Aarif in any case have been behind bars since the last about 8 months. As far as the petitioners, namely, Najama and Sameena are concerned, the allegations against them, even as per the FIR are only in respect of threats issued by them to the complainant so as not to disclose about the incident. Their role, thus, is in respect of their conduct after the alleged incident of attempt to rape. Both the said

petitioners have also been in custody since the last about 3 weeks.

It has been informed by learned counsel for the petitioners that petitioner No.1-Najama has 4 minor daughters while petitioner No.2-Sameena is a widow and has 3 minor daughters.

7. Keeping in view the aforesaid facts especially the custody period of Irfan @ Lambu and Aarif and while also noticing the role of the petitioners Najama and Sameena and the fact that they are having minor children and that challan already stands presented, further detention of the petitioners will not serve any useful purpose as the conclusion of trial will take some time. Both the petitions, as such, are accepted and the petitioners are 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.

09.02.2021

Vimal

(GURVINDER SINGH GILL)
JUDGE

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