

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

CRM-M-42672 of 2020

DATE OF DECISION :- March 16, 2021

Amit and others

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Punit Malik, Advocate for the petitioner.

Mr. Karan Garg, AAG, Haryana.

This petition for regular bail was earlier filed by petitioners Amit, aged about 23 years son of Sher Singh, resident of P.S. Bahu, Tehsil Matan Hail, P.S. Salhawas, District Jhajjar, Mahesh, aged about 18 years son of late Sh. Jitender, resident of P.S. Bahu, Tehsil Matan Hail, P.S. Salhawas, District Jhajjar and Prayagraj, aged about 20 years son of Satbir, resident of Village Bahu, Tehsil and District Jhajjar, both of them being accused in F.I.R. No. 22 dated 17.3.2020 registered with Women Police Station, Manesar, District Gurgaon for offences under Sections 376-D, 34, 120-B IPC. Later on petition on behalf of Prayagraj was withdrawn by moving an application and order in that regard was passed on 11.1.2021.

Briefly stated the facts of the case as per prosecution story are that prosecutrix victim had submitted a written complaint at Police Station Women, Manesar, Gurugram wherein she alleged that on 14.3.2020, one Sourabh and four other boys consumed liquor and offered cold drink to her and thereafter Sourabh and Golu had committed rape upon her. Sourabh had also taken away

Rs.50,000/- from her which she had withdrawn from account of her friend Poonam. Thereafter Sourabh called her to Rewari on the pretext of getting married with her but he did not do so and she has to spent her whole night on bus stand at Rewari. She called her brother-in-law, who brought her to his house.

On the basis of that formal F.I.R was registered. Investigation in the case started. Statement of prosecutrix victim was recorded under Section 164 Cr.P.C. Sourabh and Golu were arrested in this case. The present petitioners were also arrested on 3.4.2020. After completion of investigation and other formalities, challan against the accused had been filed and charge against them had been framed. Statement of the prosecutrix has also been recorded. The petitioners had approached the Court of Sessions at Gurugram seeking regular bail but were unsuccessful, as such they have approached this Court craving for grant of similar relief which request is being opposed by the learned State counsel.

I have heard learned counsel for the petitioners and learned State counsel besides going through the record.

A perusal of the file goes to show that there are no allegations that petitioners Amit and Mahesh had committed rape upon the prosecutrix victim rather the allegations are that they along with main accused Sourabh and Yogesh @ Golu had consumed liquor while rape was committed by Sourabh and Yogesh @ Golu. On perusal of statement of prosecutrix during trial as PW1 (Annexure P1) goes to show that she has levelled allegations against Sourabh and Yogesh @ Golu of having physical relations with her stating that it was with her consent. Since she did not supported the prosecution story, she was declared a hostile witness and permission was granted to the public prosecutor to cross-examine her which he did, however, nothing incriminating

qua the present petitioner could be elicited from her mouth.

The conclusion of trial is likely to take some time. The accused are behind bars for more than 11 months. Their custody is not going to serve any fruitful purpose, therefore, the petition deserves to be accepted and it is hereby allowed. Petitioners Amit and Mahesh are ordered to be released on bail on their furnishing bail bonds and surety bonds to the satisfaction of the learned trial Court/CJM/Duty Magistrate, Gurugram subject to the following conditions :-

- (i) they shall appear in the Court on each and every date of hearing.
- (ii) they shall not give any threat or intimidation to the prosecution witnesses.
- (iii) they shall not leave India without prior permission of the Court and shall surrender their Passports, if they have got one, otherwise to furnish affidavits in that regard.
- (iv) they shall not indulge in any criminal activity.
- (v) they shall join the investigation as and when directed by the Investigating Officer.
- (vi) they shall got their presence marked in the local police station on every Saturday of the week between 11.00 A.M. to 2.00 P.M. so that an eye can be kept on their movements and they are deterred from indulging in any criminal activity.

In case the petitioners violate any term and condition on which the bail has been granted to them, the prosecution would be entitled to apply for cancellation of bail.

(H.S. MADAN)
JUDGE

March 16, 2021

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No