

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-44017-2020 (O&M)****Date of Decision: 08.01.2021**

Nachhattar Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Sandeep Chopra, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Haryana,
assisted by SI Sahab 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 vide FIR No.239 dated 30.08.2020, at Police Station Samana, District Patiala, under Sections 376, 511, 342, 120-B IPC and Sections 12 & 18 of the POCSO Act.
2. The FIR was lodged at the instance of the prosecutrix, aged about 15 years, wherein it is alleged that she resides with her aunt (*bua*) Parwinder Kaur and that another of her aunt (*mami*) namely Ajit Kaur also resides with them. Since her *mama* (maternal uncle) Amrik Singh is a drunkard, therefore, her *mami* Ajit Kaur frequently visited *Baba ji*. It is alleged that one lady had recommended to her maternal aunt that Baba Harjinder Singh could treat and get rid of all her miseries and on account of which complainant's *mami* got acquainted with Baba Harjinder. It is

alleged that Baba Harjinder asked her *mami* to get some unmarried girl so as to appease “*Devi Mata*”. Being taken in by the said representation, her aunt agreed to take the complainant to said Baba. Baba Harjinder Singh informed that he along with Darshan Singh, ex-Sarpanch, would pick them up in a car. Consequently, the complainant, her *bua* (paternal aunt) Parwinder Kaur and her *mami* (maternal aunt) went with them to Kissan Feed Factory where the owner of the factory namely Suresh @ Pappi was also present and the said three persons took them inside and closed the door of the factory. It is alleged that Darshan Singh, Ex-Sarpanch, Baba Harjinder Singh, Nachhattar Singh and Davinderpal Singh took the complainant inside a room wherein one unknown person, who was being addressed as *Baba ji* was present. The said *Baba* sent Darshan Singh and Harjinder Singh out of the room and bolted the room from inside and asked the complainant to take off her shirt and upon her refusal, forcibly took off her shirt and also the trouser and started touching her in an obscene manner and attempted to establish physical relations with her. The complainant however, pushed the *Baba* aside and ran out of the room. It is alleged that thereafter by making an excuse, they went away from the factory. Subsequently, they came to know the name of said *Baba* as Akram Khan.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that even if the contents of the FIR are taken to be correct, still no overt act is attributed to the petitioner and it is the Baba Akram Khan who is alleged to have

made an attempt to commit rape upon the prosecutrix. Learned counsel for the petitioner has further submitted that when the statement of the prosecutrix was recorded in terms of Section 164 Cr.P.C. (Annexure P-3), she did not state a word against the petitioner and in fact there is no mention of the petitioner anywhere in the said statement.

4. Opposing the petition, the learned State counsel has not denied the fact that the petitioner is nowhere named in the statement recorded under Section 164 Cr.P.C. However, he has submitted that since he was present in the premises where the *Baba* made an attempt to commit rape, his complicity in the entire incident is clearly evident. The learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 4 months and that challan already stands presented.
5. I have considered rival submissions addressed before this Court.
6. Keeping in view the passive role attributed to the petitioner as per the FIR and the fact that his name nowhere figures in the statement of the prosecutrix under Section 164 Cr.P.C. and that the challan already stands presented, further detention of the petitioner will not serve any useful purpose as the conclusion of trial will take some time. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

08.01.2021

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(GURVINDER SINGH GILL)
JUDGE

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