

214 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-1772-2022

Date of Decision: 06.09.2022

NARESH SINGH AND OTHERS ... PETITIONERS
VS.
STATE OF PUNJAB .. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Amit Kumar Walia, Advocate, for the petitioners.
Mr. Parneet Singh Pandher, AAG, Punjab.

VIVEK PURI, J.(ORAL)

The petitioners are seeking regular bail in case bearing FIR No.92 dated 30.08.2021 under Section 346 IPC and later on added offences under Sections 363/366-A/342/323/376 IPC and Section 6 of POCSO Act, registered at Police Station Moonak, District Sangrur.

Custody certificates have been placed on record.

Briefly, the FIR has been registered on the allegations that on 03.07.2021, the victim, who is aged about 16 years, alongwith the complainant were travelling in a bus. The complainant was sitting on the front seat and the victim, who is her cousin, was sitting on the rear seat. After some time, she observed that the victim has gone missing from the bus.

Learned counsel for the petitioners contend that the occurrence took place on 03.07.2021 and the FIR has been lodged after a delay of 58 days on 30.08.2021. In her statement recorded under Section 161 Cr.P.C., the victim has not named the petitioners to be persons, who made her to inhale or sniff anything while she was abducted from the bus. Petitioners No.1 and 2 are the parents and petitioner No.3 is the sister of Amit Singh (co-accused). In her statement, the victim has alleged that she was made to sniff/inhale something and she became unconscious. Thereafter, she was taken to the house of Amit Singh (co-accused), where the allegations of committing forcible sexual intercourse have been levelled against Amit Singh and Sher Singh. The allegations against the petitioners are to the effect that petitioners No.1 and 2 are also involved in the incident and petitioner No.3 is the wife of Sher Singh (co-accused). It has been

further stated that as per the Aadhar Card contained at Annexure P-3, the date of birth of the victim has been mentioned as 13.11.2001 and she was in live-in relationship with Amit Singh, the son of petitioners No.1 and 2. Annexure P-4 is the affidavit of the prosecutrix/victim in this regard. The petitioners are in custody for a period of 11 months and 09 days and not involved in any other case. Till date, no witness has been examined. Though at the earlier instance, an adjournment was sought on the score that endeavour shall be made to get the statement of the victim recorded in the meanwhile but she has not been examined till date.

Learned State counsel has opposed the bail application on the score that there are serious allegations levelled against the petitioners.

Be that as it may, the allegations with regard to commission of sexual intercourse have been levelled against the co-accused. The version of the petitioner is to the effect that the prosecutrix is more than 18 years old and was in live-in- relationship with co-accused Amit Singh. The controversy as to whether the victim is more than 18 years of age and was a consenting party will be a debatable and moot point during the course of trial. No specific overt act has been attributed to the petitioners in the statement of the victim under Section 161 Cr.P.C.. Even the names of the persons, who had abducted her, have not been specified. The allegations are only to the effect that petitioners No.1 and 2 are also involved in the occurrence and petitioner No.3 is the wife of Sher Singh (co-accused). Out of 23, no witness has been examined till date. Conclusion of trial is likely to take some time and no fruitful purpose would be served by detaining the petitioners behind the bars.

Keeping in view the period of incarceration and other circumstances emerging in the case, sufficient grounds are made out to extend the concession of bail to the petitioners. Accordingly, without making any observation on the merits of the case, the present petition is allowed and petitioners are ordered to be released on bail, subject to their furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate//Duty Magistrate.

06.09.2022
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(VIVEK PURI)
JUDGE

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