

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

115

**CRR No.364 of 2022 (O&M)
Date of decision:03.03.2022**

Lakhwinder Singh

... Petitioner

Vs.

Lovepreet and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Parmod Kumar, Advocate
for the petitioner. .

SUVIR SEHGAL J.

Challenge in the instant revision petition filed under Section 397 of the Code of Criminal Procedure 1973 (hereinafter referred to as “the Code”) is to the order dated 15.12.2021 passed by the learned Additional Sessions Judge, Fast Track Special Court for the offences of rape and under the POCSO Act, Kurukshetra, vide which regular bail has been granted to accused respondent No.1.

Facts, in brief, deserve to be noticed. FIR No.637 dated 29.12.2020 for offences under Sections 66-E, 67-B of Information Technology Act, 2000, Sections 384, 506 of Indian Penal Code, 1860 (for short “IPC”) and Section 6 of Protection of Children from Sexual Offences Act, 2012 (for short “the POCSO Act”), wherein, Section 17 of POCSO Act, Sections 201, 376(3), 34 IPC were added later on, at Police Station Sadar Pehowa, Kurukshetra has been registered on the basis of a complaint of father of 15 years old victim on the allegation that in the morning on 29.12.2020, when on his asking, his wife opened the almirah to take out the

gold ornaments, she saw only empty boxes and found that all the gold ornaments were missing. On enquiring from the family members, she was told by her daughter-victim, that the gold ornaments were taken out by her, on the asking of the accused persons, who had trapped her in a love affair and had made obscene video with her. She was also told that the accused had raped her and threatened to kill her that in case she discloses it to anyone, they will make her video viral and have been blackmailing her. Bail application filed by one of the accused, Lovepreet-respondent No.1 has been accepted by the Special Court, vide order impugned herein.

Heard counsel for the petitioner.

On a specific query by the Court regarding maintainability, counsel for the petitioner has placed reliance upon a judgment of this Court in **Bodh Raj Vs. State of Haryana 1993(3) RCR (Criminal) 720** to submit that the order passed granting bail is not an interlocutory order and a revision petition against the same is maintainable.

However, interpreting the provisions of sub-section (2) of Section 397 of the Code, Supreme Court in **Amar Nath and others Vs. State of Haryana and another (1977) 4 SCC 137** has held as under:-

“6.It seems to us that the term "interlocutory order" in Section 397(2) of the 1973 Code has been used in a restricted sense and not in any broad and artistic sense. It merely denotes orders of a purely interim or temporary nature which do not decide or touch the important rights or the liabilities of the parties. Any order which substantially affects the right of the accused, or decides certain rights of

the parties cannot be said to be an interlocutory order so as to bar a revision to the High Court against that order, because that would be against the very object which formed the basis for insertion of this particular provision in Section 397 of the 1973 Code. Thus, for instance, orders summoning witnesses, adjourning cases, passing orders for bail, calling for reports and such other steps in aid of the pending proceeding, may no doubt amount to interlocutory orders against which no revision would lie under Section 397(2) of the 1973 Code.....”

In view of the position settled by the Apex Court, the instant revision petition is not maintainable and is dismissed as such. However, it is clarified that this will not bar the petitioner from taking recourse to the remedy available to him, in accordance with law.

(SUVIR SEHGAL)
JUDGE

March 03, 2022
savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes