

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

(208)

**CRM-M-19321-2021
DATE OF DECISION:- 21.07.2022**

CHAND LAL

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

(208-2)

**CRM-M-20869-2021
DATE OF DECISION:- 21.07.2022**

DEEPAK GUPTA @ DEEPU @ BABLU

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

(208-3)

**CRM-M-39662-2021
DATE OF DECISION:- 21.07.2022**

MANOJ SHARMA @ KALA

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Siddharth Gupta, Advocate for the petitioner(s)
in CRM-M-19321-2021 and CRM-M-20869-2021.

Mr. Jai Bhagwan Sharma, Advocate
for the petitioner in CRM-M-39662-2021

Mr. Prabhjot Singh Walia, AAG, Punjab
for the State-respondent.

Mr. Angel Sharma, Advocate
for the complainant.

SUVIR SEHGAL, J. (ORAL)

This order shall dispose of all the three above mentioned petitions as all the three petitioners are accused in FIR No. 0340 dated 10.07.2020 registered at Police Station City Barnala, District Barnala under Section 346 of the Indian Penal Code (for short “IPC”), wherein Sections 376-D, 328, 120-B, 506, 166-A and 34 of IPC and Sections 3, 4 and 5 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 365 and 366 of IPC, were added later on. All the three accused-petitioners have approached this Court by way of separate petitions under Section 439 of the Code of Criminal Procedure, 1973 (for short “the Code”) seeking grant of regular bail.

For the sake of convenience, facts are being taken from CRM-M-19321-2021.

Version of the prosecution is that FIR in question has been registered on the statement of a mother of a twenty two year old college going girl (hereinafter referred to as “the prosecutrix”) on the allegation that on 24.06.2020 the prosecutrix went with her tenant, Karamjit Kaur @ Aman, on her scooty to the market, however, she did not return. The complainant along with Chand Lal, husband of Karamjit Kaur @ Aman, tenant, went to the city and searched for her, but they did not succeed. Enquiries were made, but all in vain. The complainant lodged the FIR suspecting that Karamjit Kaur @ Aman of confining the prosecutrix at some secret place.

Counsel for the petitioner(s) submits that the prosecutrix was in an affair with Lakhwinder Singh and ran away from her paternal home and got married to him. He submits that both the prosecutrix and Lakhwinder Singh filed a petition before the learned Additional Sessions

Judge, Ludhaina and vide order dated 24.07.2020, Annexure P-2, the Court directed the Commissioner of Police Ludhiana to look into the matter and assess the threat perception to the petitioners, though vide order dated 10.02.2021, Annexure P-3, the petition was withdrawn. Counsel submits that in the meantime, the prosecutrix appeared before the Court of Judicial Magistrate First Class, Barnala on 28.07.2020 and made a statement under Section 164 of the Code to the effect that she has married Lakhwinder Singh and accused Karamjit Kaur @ Aman has not committed any offence. He submits that on her statement, accused Karamajit @ Aman was discharged from the case. Counsel assert that the petitioners have been falsely implicated and some of the co-accused including Dharminder Singh and Gulab Singh have been granted bail by this Court. He submits that challan qua the petitioners has been presented and the petitioners are no longer required for custodial interrogation, therefore, they deserve to be released on bail.

Opposing the petition, State counsel upon instructions received from ASI, Gurdeep Singh and on the basis of status report submitted by way of affidavit of Deputy Superintendent of Police, Barnala in CRM-M-19414-2021, Lalit Gupta Versus State of Punjab, has submitted that on 20.02.2021 information was received that the prosecutrix is admitted in Civil Hospital, Barnala and after she was declared medically fit, her statement was recorded. She was produced before the Magistrate on 23.02.2021 and she stated that she was taken by Karamjit Kaur @ Aman to the house of her sister-in-law, Karamjit Kaur, where 20-25 persons were present including Manoj Sharma @ Kaka (petitioner in CRM-M-39662-2022), Pawan, Lalit Kumar, Dharminder, Chand Lal (petitioner in CRM-M-19321-2021), Karamjit Kaur, Ritu and

Payal. Prosecutrix has stated that Karamjit Kaur made her drink coke laced with some intoxicating substance and in her semi conscious state, she is aware that Baba @ Manoj Kumar, Dhalwinder and Chand Lal sexually exploited her. However, when she regained consciousness, she found herself at village Pandher and was bleeding from her private parts. She remained there for about 17 days and some police officials also used to visit the place and she remembers the names of Karamjit Singh, Gulab Singh and Darshan Singh. From there, prosecutrix stated she was taken by bus to Bathinda where they forcibly married her to Lakhwinder Singh and under threat forced her to make a statement regarding her marriage before the Magistrate. She was threatened that the police officials would harm her parents in case she did not toe their line. She managed to escape from Bathinda and called her parents and told them that she is going to commit suicide. However, they came to Lahragaga and she was admitted in the Civil Hospital by her mother. State counsel has further submitted that a Special Investigation Team has been constituted and some of the accused are yet to be arrested. It is his submission that considering the nature of allegations against the petitioners, they do not deserve the concession of bail.

I have considered the submissions made by counsel for the parties.

The incriminating material collected by the Investigating Agency can be culled out from para 10 to 12 of the status report and is reproduced as under:-

“10. That from the interrogation of the above said arrested accused it was transpired that on 24.06.2020 Karamjit Kaur accused had taken the prosecutrix along with her to the house of co-accused, Deepak Gupta @ Babli R/o Street No.4, Gobind Colony Barnala where

co-accused Pawan Kumar, Lalit Gupta-petitioner, Kaka, Priyanka Gupta, Deepak Gupta and Parmo etc. had arranged a pooja function, which was to be performed by co-accused Manoj Sharma for "Showering of money". Accused Manoj Sharma @ Baba had reached the said house along with Santosh Rani and Rakesh Pandit. Manoj Sharma @ Baba made physical relations with the prosecutrix on the pretext of making shower of money. The entire incident was witnessed by Karamjit Kaur @ Aman. During the course of sexual activity the prosecutrix started bleeding on account of which Lalit-petitioner, Kaka and Santosh Rani took the prosecutrix along with them and left her at the house of co-accused Amritpal Kaur at village Pandher where Amritpal Kaur called Dr. Sony and got the prosecutrix medicines for fever and stomach ache. In her said statement, she also narrated how she was taken to Bathinda from Pandher by Karamjit Kaur and left at Bathinda with co-accused Payal and Ritu. Her statement may be referred in this regard.

11. That on 02.03.2021 ASI Darshan Singh, ASI Karamjit Singh and SI Gulab Singh have been nominated in this case as co-accused by the Special Investigating Team as their names had figured in the statement of prosecutrix recorded under Section 164 Cr.P.C. by the Ld. Magistrate Barnala on 23.02.2021 and statement u/s 161 Cr.P.C. recorded by SI Sandeep Kaur on 24.02.2021.

12. That offence punishable (sic under) Section 3 (2) (v) of SC/ST Act has been added in the scope of investigation on 05.03.2021 vide DDR No.74 of PS City Barnala as it came to the knowledge of the members of the SIT that Sandeep Kaur prosecutrix belong to Scheduled Caste where as the accused were non-Scheduled Caste."

Status report shows that challan has been presented before the Special Court, Barnala against accused Chand Lal, Amritpal Pal Kaur, Manoj Kumar @ Baba, Santosh Rani, Deepak Gupta, Priyanka Gupta and Pawan Gupta on 17.05.2021 and the Special Investigation Team, which has been formed by the Senior Superintendent of Police, Barnala is in the process of collecting more material against the accused persons. It has been specifically submitted that a ceremony was performed at the house of Deepak Gupta @ Deepu @ Bablu (petitioner in

CRM-M-20869-2021) and all the accused are hand in glove with each other and equal participants in the crime.

All the three accused along with the co-accused, have connived with each other and sexually assaulted a 22 year old college going girl, who was abducted and sedated. Not only this, in order to cover up their spine chilling crime, they forcibly performed her marriage with Lakhwinder Singh and intimidated her into making a false statement before the Magistrate. The sordid deeds as unfolded by the prosecutrix in her second statement before the Magistrate, reveal a shocking state of affair that has ruined a young life. The prosecutrix is yet to be examined. Some of the accused are police officials and releasing of the accused-petitioners even before the prosecutrix has stepped into the witness box, is not warranted.

Keeping in view the totality of the facts and circumstances, grave allegations against the petitioners are also considering the fact that the prosecutrix belongs to the underprivileged section of the society, this Court is not inclined to enlarge any of the accused-petitioners on bail.

All the three petitions lack merit, are hereby, dismissed.

It is clarified that nothing said hereinabove shall be construed to be an expression of the opinion on the merits of the case.

21.07.2022
Kamal

(SUVIR SEHGAL)
JUDGE

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