

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

(204-1)

CRM-M-44037-2021

DATE OF DECISION:- 25.01.2022

MEHTAB SINGH**...PETITIONER****VERSUS****STATE OF PUNJAB****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present: Mr. Gagandeep Singh Simble, Advocate for the petitioner.

Mr. C.L.Pawar, Senior D.A.G., Punjab
for the respondent-State.

SUVIR SEHGAL, J. (ORAL)

Heard through video conferencing.

Instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of order dated 20.04.2021, Annexure P-3, whereby the petitioner has been declared as proclaimed offender in FIR No.28 dated 13.02.2020 registered for commission of offences under Sections 363, 366, 376-D and 120-B of the Indian Penal Code, 1860 and Section 6 of Protection of Children from Sexual Offences Act, 2012 (for short "POCSO Act"), at Police Station Civil Lines, Batala, Police District Batala, Gurdaspur, Annexure P-1.

FIR, Annexure P-1, has been registered on the statement of a mother on the allegation that on 11.02.2020 when she came back from school, where she is working as a Peon, she found that her younger daughter (hereinafter referred to as "the victim") was missing. On enquiry, her elder daughter informed her that the victim had gone to the Government Hospital to get medicines for her grandmother, but had not returned. Despite attempts, the complainant could not find

her missing daughter. She lodged the FIR on the suspicion that Mandeep Singh had enticed her daughter on pretext of marriage and he may exploit her or cause serious harm to her.

The victim was recovered and her statement was recorded, wherein she stated that Mandeep Singh wanted to marry her and on 11.02.2020, took her to Amritsar, where he administered some intoxicant to her in a cold drink. He called his friends, Joban, Harman and Golu (present petitioner), who raped her. Next day, Mandeep Singh took her to a Hotel and raped her, and on 13.02.2020 when they were going towards Mehta, they were intercepted by the police. On the basis of her statement, offences under Section 376-D and 506, IPC and after verifying her age, offence under Section 6 of POCSO Act, were added.

Counsel for the petitioner has referred to affidavit dated 17.03.2021, Annexure P-2, to argue that the victim has deposed that the petitioner was not present at the time of the occurrence, he did not sexually assault her and she does not want to take any action against him. Counsel contends that during the identification parade, the victim did not recognize the petitioner and the petitioner was not aware of the pendency of the proclamation proceedings and that he was not aware of the passing of the impugned order.

Opposing the petition, State counsel submits that the petitioner was specifically named by the victim in her supplementary statement and despite the fact that the prayer of the petitioner for grant of anticipatory bail was rejected by the learned Additional Sessions Judge on 04.09.2020, Annexure P-4, the petitioner did not join the investigation and was declared as a proclaimed offender vide impugned order, after following the procedure prescribed under Section 82, Cr.P.C.

Heard counsel for the parties.

Petitioner has not been able to assign any justifiable cause for not joining the investigation, even though his prayer for pre-arrest bail had been turned down by the Sessions Court nor he has been able to point any fault in the procedure. This Court, therefore, does not find any reason to interfere with the impugned order.

Considering the fact that the objective behind Section 82, Cr.P.C. is to secure the presence of the accused, this Court is of the view that the petitioner deserves to be given an opportunity to join the proceedings.

It is, accordingly, ordered that in case the petitioner surrenders and joins the proceedings within a period of two weeks from today and moves an application seeking grant of regular bail, the Trial Court shall make an endeavour to decide the same within a period of one week of its filing, uninfluenced by any observation made hereinabove.

Petition is disposed of.

(SUVIR SEHGAL)
JUDGE

25.01.2022
Kamal

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