

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-30476-2023

Date of Decision: 10.08.2023

Piyush Saini and others

.... Petitioners

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Parminder Singh, Advocate for the petitioners.

Mr. Arjun Lakhanpal, Addl. A.G., Haryana.

NIDHI GUPTA, J. (ORAL)

Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioners in case FIR No. 991 dated 10.12.2019 registered under Sections 376 and 506 IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 at Police Station City Karnal, District Karnal.

The brief factual matrix of the prosecution case is that the aforesaid FIR was registered on the basis of complaint moved by respondent No. 2-complainant/father of the victim alleging therein that his daughter/victim is 12 years old, and that on 09.12.2019, she tried to commit suicide by hanging herself with the aid of dupatta. He and his wife stopped her and talked to her. She disclosed that on 21.09.2019, when she was alone in the house, Lovely and Shubham (petitioner No. 2 herein) forcibly entered inside their house and committed sexual assault

upon her. They also clicked her photographs. Thereafter, on 25.09.2019, she was again forcibly raped by co-accused, Piyush and Himanshu (petitioners No. 1 and 3 herein). On both occasions, one of the accused used to hold her limbs and the other boy used to commit rape upon her. On 02.10.2019, she was again raped by Lovely and Shubham and thereafter, on 02.12.2019 by Piyush and Himanshu. They also clicked photographs of the victim and threatened her to make them viral on social media, in case, she narrate the occurrence to anyone. They also threatened to finish off her family. With these broad allegations, the complainant requested to take legal action against the accused persons.

Learned counsel for the petitioners *inter alia* submits that that petitioner have been falsely implicated in the instant case. No offence is made out against them. Learned counsel for the petitioners also submits that a Special Investigation Team (SIT) was constituted for conducting investigation in the present case. During the course of investigation, the call details and mobile locations of the petitioners, attendance register for petitioner No. 1-Piyush Saini, from DRS Senior Secondary School, Karnal and the attendance record of petitioners No. 2 and 3-Shubham and Himanshu from their job places for the alleged dates i.e. 21.09.2019, 25.09.2019, 02.10.2019 and 02.12.2019 were collected and all of them were found present at their respective places and they were declared as innocent. However, they were summoned to face trial by virtue of Section 319 Cr.P.C. It is submitted that the prosecutrix in her statement under Section 164 Cr.P.C., has levelled allegation that Lovely, has committed rape with her. The petitioners have joined the investigation and polygraph test was conducted. Petitioner No. 1-Piyush

Saini was a juvenile at the time of alleged incident. The prosecutrix committed suicide on 05.03.2021 at the house of her maternal uncle. Lastly, learned counsel for the petitioners submits that nothing is to be recovered from the petitioners, therefore, their custodial interrogation is not required. They are ready to join the investigation as and when required and shall abide by all the terms and conditions imposed upon them.

Per contra, learned counsel for the State vehemently opposed the submissions made by learned counsel for the petitioners submitting that at the time of alleged incident, the victim was a minor girl of 12 years and 7 months of age. During the pendency of the trial, she has committed suicide on 05.03.2021. It is further submitted that the victim in her statement recorded under Section 164 Cr.P.C., has fully supported the case of the prosecution. According to the prosecution story, the victim was repeatedly raped by petitioners and their co-accused on 21.09.2019, 25.09.2019, 02.10.2019 and 02.12.2019. Allegations against petitioners are serious in nature. Thus, prayer has been made for dismissal of the instant petition.

I have heard learned counsel for the petitioners and carefully gone through the record.

As per prosecution version, the petitioners along with their co-accused-Lovely, repeatedly commit rape upon the victim who was a minor girl of 12 years and 07 months of age at the time of alleged occurrence. They also clicked obscene photographs of the victim and threatened her to make them viral on social media. The victim being a child was scared of the accused persons, thus, the FIR was lodged only on

10.12.2019. During the pendency of trial, she had committed suicide on 05.03.2021.

Keeping in view the facts and circumstances of the case as noticed above; allegations levelled in the FIR against the petitioners and also the fact that the victim had committed suicide during the pendency of trial as well as the seriousness and gravity of the offences alleged to have been committed by the petitioners, *prima facie* no justifiable ground to extend the concession of anticipatory bail to the petitioners is made out. Hence, the present petition being completely devoid of any merit is dismissed.

10.08.2023
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(NIDHI GUPTA)
JUDGE

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