

Sr.No.104

2023:PHHC:151789

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

CRM-M-59653-2023(O&M)

Date of decision:28.11.2023

Md. Sahan and another

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: Hon'ble Ms. Justice Harpreet Kaur Jeewan

Present: Mr. Ajay Gupta, Advocate with
Mr. Gourav Verma, Advocate
for the petitioners.

Mr. Amrik Singh Narwal, DAG, Haryana.

Harpreet Kaur Jeewan, J.(Oral)

1. The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioners in case FIR No.484 dated 23.06.2023 registered at Police Station Kundli, District Sonipat, under Sections 346, 365, 376-D, 377 and 212 of Indian Penal Code.

2. Learned counsel for the petitioners has submitted that initially the matter was reported to the police on 23.06.2023 with the allegations that the victim is missing from her house. Infact the prosecutrix is 24 years of age, who left her house as per her wish as she was having an affair with Sahan-petitioner No.1. The FIR has been registered after due deliberations. It was further contended that the victim has improved her version as given in her statement recorded under Section 161 Cr.P.C (Annexure P-3) in a subsequent statement recorded under Section 164 Cr.P.C. (Annexure P-4). Petitioners have been falsely implicated in the present FIR.

3. On the other hand, learned State counsel has opposed the prayer of anticipatory bail as it's a gang rape case.

4. I have considered the aforesaid contentions. There are serious allegations against the petitioner and his co-accused in the statement recorded under Section 164 Cr.P.C (Annexure P-4). The victim was taken from her house on 23.06.2023 and she has been recovered on 24.07.2023. Her medical examination was conducted on 28.07.2023. As per her medical examination she was victim of sexual assault and her vaginal swabs are pending for DNA examination. Samples are actually taken for DNA comparison. The allegations are that of gang rape and taking away the petitioner to different places.

5. As per the version in the statement recorded under Section 164 Cr.P.C on 28.07.2023, the victim was initially taken to Banaras kept there for 10 days there and was locked in a room. Victim was beaten up and then she was taken to Bihar and ultimately she has been brought back to her family with the intervention of the police. In the said statement there are specific allegations that the victim was taken to Bihar and she was pressurised to change her religion and she was forced to eat meat. The victim could only send information to her family through Sarpanch of the village, who came to make some inquiry and she gave him the phone number and name of her father. Thereafter the father of the victim could reached there alongwith the police.

6. Keeping in view the serious allegations of gang rape against the petitioners and considering the fact that medical examination reports are awaited and samples of the petitioners would be required for DNA matching, no ground is made out to grant concession of pre-arrest bail to the petitioners.

7. Dismissed.

28th November, 2023
Shivani Kaushik

[HARPREET KAUR JEEWAN]
JUDGE

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