



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25352-2024 (O&M)
Reserved on: 24.07.2024
Date of Pronouncement:- 22.08.2024

HARPREET SINGH AND ANOTHER
.....Petitioners
Vs.
STATE OF PUNJAB AND ANOTHER
.....Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN
(As on the reserved date)

Present: Mr. Sidhant Vermani, Advocate, for the petitioners.
Ms. Sakshi Bakshi, A.A.G., Punjab.
Mr. R.S. Bains, Senior Advocate, with
Mr. J.S. Sidhu, Advocate, for respondent No. 2.

HARPREET KAUR JEEWAN, J.

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. 24, dated, 16.02.2024, registered at Police Station 'B Division' District Amritsar, under Section 376-D of the IPC and Section 6 of the Protection of Children from Sexual Offences, Act, 2012 (for short '*the POCSO Act*') (Sections 120-B and 201 of the IPC were added later on).
2. The victim herself got registered the FIR with the allegations that she is a student of 10+1 Class. The co-accused of the petitioners, namely Mankirat Singh, used to stop her for the last 3-4 months and ultimately, he initiated conversation with the prosecutrix that he is pursuing his International English Language Testing System (IELTS) and he intends



to solemnize marriage with the prosecutrix and he proposed to take her abroad. On 30.11.2023, the prosecutrix was informed by the aforesaid co-accused of the petitioners that his parents intend to meet the prosecutrix and meeting had been fixed in a hotel situated at Sultanwind road, Amritsar. When the prosecutrix reached the said hotel, she got perplexed as the parents of Mankirat Singh were not present there. However, the prosecutrix was over-powered and the door of the room was closed by co-accused Mankirat Singh with the aid of another boy namely Sahilpreet Singh. Both the aforesaid co-accused sexually abused the prosecutrix without her consent and they threatened her that they have also made a video of the said act and they would make it viral in case, she discloses the said fact to anyone.

2.1 As per the status report, during the course of investigation, the prosecutrix and her father have taken the investigating officer to the place of occurrence, i.e. Hotel Royal 80tude, Sultanwind road, Amritsar. Upon checking the said reception counter of the hotel, photostate copies of the Aadhar cards of the co-accused Mankirat Singh and Sahilpreet Singh were found in drawer of the counter and an entry register was also found in the counter. Upon checking the register therefrom, no entry found in the register that co-accused Mankirat Singh and Sahilpreet Singh have visited the hotel. However, the copy of the Aadhar card of co-accused Mankirat Singh and Sahilpreet Singh were taken into police possession by the investigating officer.

2.2 As per the status report, the medical examination of the victim was conducted, however, after the arrest of the co-accused, the DNA profile



matching report is still pending. As per the status report, in the statement recorded under Section 164 Cr.P.C., the prosecutrix has categorically stated that the bed sheet in the room was drenched with the blood where co-accused Mankirat Singh and Sahilpreet Singh had committed rape upon her. The allegations against the petitioners are that the rape was committed with their connivance with the aforesaid co-accused.

2.3 As per the status report, the petitioners have been nominated as accused in the present FIR on the basis of the supplementary statement of the prosecutrix and her father. On 09.04.2024, the father of the prosecutrix has produced his typed statement and presented it before the investigating officer as per the status report. The supplementary statement of the prosecutrix has also been recorded by the investigating officer and thereupon the offences under the provisions of Section 201/120-B IPC were added and both the petitioners were nominated, vide GD No. 13, dated 09.04.2024 in the present FIR. The petitioners are alleged to have facilitated the commission of crime by aiding the main accused and tampering with the evidence while removing the alleged bed-sheet from the place of occurrence.

3. Learned counsel for the petitioners *inter alia* contends that neither the accused party nor the prosecutrix ever came or visited the hotel; of petitioner No. 1, who is running the same under the name of “Hotel Royal 80tude” situated at Sultanwind area Amritsar.

3.1 It is further contended that the FIR was registered against two accused persons namely Mankirat Singh and Sahilpreet Singh on allegations against them having committed rape upon the prosecutrix on



30.11.2023. The petitioners are neither named in the FIR nor there are allegations against them even in the statement of the prosecutrix recorded under Section 164 Cr.P.C.

3.2 Counsel for the petitioners further contends that the police of Police Station B Division, Amritsar, approached the petitioners in the month of February 2024 and asked them to show the Hotel Admissions Register in which the entry of the guests is recorded. The said Register was taken into custody by the police officials however, no receipt was given. Thereafter, the police officials started extending pressure upon the petitioners to fabricate the admission register by including the name of the prosecutrix and the accused to show that they had stayed in the hotel on the relevant date, i.e. 30.11.2023. The petitioners are having the recording of telephonic conversation whereby the police officials are raising such demands. As such the petitioners moved a representation to the higher police officials and even filed a petition before this Court, however, they have been falsely implicated in the case. They are ready to join the investigation.

4. Learned counsel for the State making a reference to the status report filed by the State has opposed the present petition and submitted that the custodial interrogation of the petitioners is required. The recovery of documents, i.e. copy of the Aadhar cards of the petitioners was effected from the drawers of the hotel premises and the said documents were taken into possession, vide memo dated 15.02.2024.

5. Learned Senior Counsel appearing for respondent No. 2 opposed the grant of anticipatory bail to the petitioners. It is submitted that



the prosecutrix is under the age of 16 years. As per the allegations, she was in school dress at the time when she was induced by the petitioners to visit the said hotel. The petitioners have violated the provisions of Section 19 of the POCSO Act by not reporting the matter to the police and even tried to destroy the evidence by removing the stained bed sheet.

5.1 It is further contended that the names of the petitioners could not figure in the FIR as the minor victim is not supposed to be knowing the name of the Manager and the owner of the hotel. It is also contended that the natural mother of the prosecutrix had already expired and she felt little hesitation by informing the incident to her step mother, as such the delay has been explained. s

6. I have considered the aforesaid contentions and perused the paper-book.

7. No doubt the Manager and the owner of the hotel are primarily concerned with the business of hotel. However, as per usual practice the identity proof of the visitors to the hotel are being taken. The prosecutrix was below the age of 16 years at the time of the alleged occurrence. Both the petitioners have allegedly permitted two young boys to stay in hotel, who accompanied a minor victim, below the age of 16 years and *prima facie* they kept the copies of the identity proof of both the boys but the entry was not made in the register of the hotel.

8. While dealing with the minors, the duty is not merely upon the makers of Law Enforcement Agencies, however, such duties are also cast upon the Civil Society to protect the interest of minor children in the society. Protection of Children from Sexual Offences, Act, 2012, has been



enacted to protect the children from sexual assault and harassment. Apart from this, a special duty casts upon each and every person and it is mandatory for all of us to report about the offence as per the provisions of Section 19 of the POCSO Act 2012. If any person including a child has an apprehension that an offence under the POCSO Act is likely to be committed or has the knowledge that such an offence has been committed, it is mandatory for him to give an information to the Special Judicial Police Unit or to the local police.

9. Section 19 of the POCSO Act reads as under:-

“19. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any person (including the child), who has apprehension that an offence under this Act is likely to be committed or has knowledge that such an offence has been committed, he shall provide such information to,-

(a) the Special Juvenile Police Unit; or

(b) the local police.

(2) Every report given under sub-section (1) shall be-

(a) ascribed an entry number and recorded in writing;

(b) be read over to the informant;

(c) shall be entered in a book to be kept by the Police Unit.

(3) Where the report under sub-section (1) is given by a child, the same shall be recorded under sub-section (2) in a simple language so that the child understands contents being recorded.

(4) In case contents are being recorded in the language not understood by the child or wherever it is deemed necessary, a translator or an interpreter, having such qualifications, experience and on payment of such fees as



may be prescribed, shall be provided to the child if he fails to understand the same.

(5) Where the Special Juvenile Police Unit or local police is satisfied that the child against whom an offence has been committed is in need of care and protection, then, it shall, after recording the reasons in writing, make immediate arrangement to give him such care and protection (including admitting the child into shelter home or to the nearest hospital) within twenty-four hours of the report, as may be prescribed.

(6) The Special Juvenile Police Unit or local police shall, without unnecessary delay but within a period of twenty-four hours, report the matter to the Child Welfare Committee and the Special Court or where no Special Court has been designated, to the Court of Session, including need of the child for care and protection and steps taken in this regard.

(7) No person shall incur any liability, whether civil or criminal, for giving the information in good faith for the purpose of sub-section (1).”

10. Section 21 of the POCSO Act provides punishment for failure to report the commission of an offence under Section 19 of the Act. The petitioners are alleged to have *prima facie* aided the commission of aggravated penetrative sexual assault by giving the room of their hotel to their co-accused, who committed the said offence upon the victim who is below the age of 16 years.

11. In view of the aforesaid facts and circumstances of the present case, the petitioners are not entitled to the concession of anticipatory bail.

12. Consequently, the petition stands dismissed and the interim order dated 27.05.2024 passed by this Court stands vacated.



13. It is made clear that nothing observed hereinabove will be taken to be an observation on the actual merits of the case, which would be taken up by the learned trial Court wholly on the basis of evidence led/gathered before it.

14. Pending miscellaneous applications, if any, also stand disposed of.

August 22, 2024
nitin/s

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether Reportable	No