

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

215

CRM-M No.33576 of 2023
Date of Decision: 05.03.2024

Gurlal Singh and another ... Petitioners

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ranjodh Singh Sidhu, Advocate,
for the petitioners.

Mr. Amandeep Singh Samra, AAG, Punjab.

MANISHA BATRA, J.(Oral)

1. The present petition has been jointly filed by the petitioners Gurlal Singh and Gurdev Singh under Section 439 of Cr.P.C. seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
268	26.11.2020	City Patti, District Tarn Taran	363 and 366-A of IPC and 8 of Protection of Children from Sexual Offences Act, 2012 (For short "POCSO Act")

2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of the statement recorded by the complainant "S" (name withheld) on 26.11.2020 alleging therein that the victims "K" and "N" (names withheld) were her two minor daughters aged about 16 and 15 year respectively. On the night of 21.11.2020, they were found to be missing from the house. The complainant made search for them but could not find them. He raised suspicion that they were enticed away by the present petitioners who

Neutral Citation No.2024:PHHC:031768

were previously residing in his neighbourhood on the pretext of performing marriage. Initially, a case under Sections 363 and 366-A of IPC and Section 8 of POCSO Act was registered. Investigation proceedings were initiated. On 13.12.2020, both the victims were recovered from the custody of the petitioners. They were arrested. The victims as well as the petitioners were got medico legally examined. The statements of the victims under Section 161 of Cr.P.C. were got recorded. In her statement recorded under Section 164 of Cr.P.C. the victim “K” stated that the petitioner Gurdev Singh had established physical relations with her by taking her consent. It was also revealed that the victim “N” was ravished by the petitioner Gurlal Singh. On the basis of the same, offences under Sections 376 of IPC and Sections 4 and 6 of POCSO Act were also added. After completion of necessary investigation and usual formalities, challan was presented before the learned trial Court and presently, the petitioners are facing trial for commission of the aforementioned offences.

3. The present petition has been filed by the petitioners on the grounds and it is argued that they have been falsely implicated in this case. They are in custody since 13.12.2020. The investigation has since been completed. Challan has been presented. Trial is likely to take time. Infact, the petitioners were having love affair with the daughters of the complainant and since the victims were above 16 years of age at the relevant time, therefore, they could not be held responsible for enticing them away. No marks of injuries were found on the person of the victims. There was delay of more than five days in lodging of the FIR which stood unexplained. There were no chances of their tampering with the prosecution evidence. They had

Neutral Citation No.2024:PHHC:031768

permanent abode and there was no apprehension of their absconding.

Therefore, it is argued that they deserve to be given benefit of regular bail.

4. Status report has been filed by the respondent-State. It is submitted therein and it has been vehemently argued by learned State counsel that there are serious and specific allegations against the petitioners. In connivance with each other, both of them enticed away the minor daughters of the complainant on the night of 21.11.2020. The petitioner Gurlal Singh had ravished the victim “N” and the petitioner Gurdev Singh had ravished the victim “K”. Only because of the fact that no spermatozoa was detected on the vaginal swabs of the victims, the petitioners could not be exonerated from the allegations as levelled against them. The trial has commenced and there is nothing on record to show that there would be any undue delay in conclusion of the same. The victims are yet to be examined. There are chances of the petitioners’ intimidating them if extended benefit of bail. Therefore, it is argued that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioners as well as learned State counsel and have perused the record carefully.

6. The petitioner Gurlal Singh is alleged to have enticed away the victim “N” and the petitioner Gurdev Singh is alleged to have enticed away the victim “K” as on 21.11.2020. Both the victims were admittedly minor at that time. The fact that in her statement recorded under Section 164 of Cr.P.C., the victim “K” had stated that she had gone with the petitioner with her own consent, cannot be stated to be of any relevance due to the fact that she was a minor at that time. The victims were subjected to acts of aggravated penetrative sexual assault by the petitioners respectively and this

Neutral Citation No.2024:PHHC:031768

fact stands prima facie established from the statement recorded by the victim “K” under Section 164 of Cr.P.C. itself. Keeping in view the gravity of the offences which are alleged to have been committed by the petitioners, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the petitioners do not deserve to be extended benefit of bail at this stage. Hence, the petition is dismissed.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

05.03.2024
manju

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No