

Law Today Live Doc. Id. 15267

PUNJAB AND HARYANA HIGH COURT**Before: Raj Mohan Singh, J.**

CRM-M No. 8798 of 2020

Decided on: 21.08.2020

Dharma Singh @ Dharampal Singh

Petitioner

Versus

State of Punjab

Respondent

Present:

Mr. P.K.S. Phoolka, Advocate, for the petitioner.

Mr. Ramandeep Sandhu, Sr. D.A.G., Punjab.

Indian Penal Code, 1860 (45 of 1860), Sections 376-D, 363, 366-A, 376, 506, 34 – Protection of Children from Sexual Offences Act, 2012 (32 of 2012), Sections 3,4 -- Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Sections 3,4 -- Code of Criminal Procedure, 1973 (2 of 1974), Section 439 – Gang rape – Regular bail -- Prosecutrix supported the prosecution version, however, she turned hostile in respect of other accused -- Out of 20 prosecution witnesses, 07 prosecution witnesses have been examined so far -- Petitioner is in custody since July, 2018 -- Due to the situation arising out of COVID-19 pandemic, the administration has imposed restrictions to curb its spread, therefore, no useful purpose would be served by keeping the petitioner behind the bars -- Petitioner is ordered to be released on regular bail.

(Para 6-10)

RAJ MOHAN SINGH, J. (ORAL) –

1. This case has been taken up for hearing through video conferencing.

2. Petitioner seeks grant of regular bail under Section 439 Cr.P.C. in case bearing FIR No.62 dated 25.06.2018 under Sections 376-D, 363, 366-A, 376, 506, 34 IPC and under Section 3 and 4 of The Protection of Children from Sexual Offence, 2012 and under Section 3 ad 4 of SC/ST Act, registered at Police Station Saddar Rampura, District Bathinda.

3. FIR was registered on the statement of complainant-Sewak Ram with the allegations that on 24.06.2018, his father Amrik Singh, his wife namely Sukho Devi and his younger brother namely Sandeep Ram had gone to fields for sowing paddy crops. Mother of the complainant namely Banso Devi, grandmother namely Mehngi and his sister Nisha were at home. Later on, his grandmother and mother went to take fodder for the cattle in the fields and his sister Nisha was left alone in the house. When they returned home at about 6.00 PM, Nisha was not found present in the house. On 25.06.2018, at about 12.15 PM, complainant received a phone call of his sister that she was standing at T-point Rampura. Complainant along with his relative went to take the prosecutrix back home. The prosecutrix narrated that on 24.06.2018, at about 2.00 PM, when she was alone in the house, a motorcycle came in front of their house. Petitioner and Jagsir Singh entered the house. They were already known to the prosecutrix. They told that her father had met with an

accident. She became nervous and believed their version and also accompanied them on their motorcycle. They took her to a house at Rampura where one boy named Raju was present. The prosecutrix alleged that all were involved in obscene activities with her. On her protest, they made her to consume some drink laced with some intoxicant and thereafter, she became unconscious. On gaining consciousness, she came to know that the trio had committed bad act with her. When she raised alarm, they threatened her to eliminate and at about 12'o noon, they left her at T-point Rampura.

4. In the prosecution story, pointed allegations were made against all the three accused namely the petitioner, Jagsir Singh and Raju. The prosecutrix has been examined as PW1 by the trial Court and she has not supported the case of the prosecution and has turned hostile. There was no medical evidence available on record as the prosecutrix had refused to undergo medical examination.

5. Jagsir Singh filed CRM-M No.6678 of 2020 which has been accepted by the High Court vide order dated 19.02.2020, thereby granting regular bail to him. Similarly, Raju filed CRM-M No.21317 of 2020 for grant of regular bail and the same has also been accepted by the High Court vide order dated 13.08.2020.

6. Learned State counsel on instructions, however, opposed the same on the ground that the prosecutrix has supported the prosecution version, however, it is not in dispute that she has turned hostile in respect of other accused.

7. Out of 20 prosecution witnesses, 07 prosecution witnesses have been examined so far.

8. Having heard learned counsel for the parties, I find that the petitioner is in custody since July, 2018.

9. Due to the situation arising out of COVID-19 pandemic, the administration has imposed restrictions to curb its spread, therefore, no useful purpose would be served by keeping the petitioner behind the bars.

10. In view of above, the petition is allowed. Petitioner is ordered to be released on regular bail, on his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate, concerned.

11. Nothing expressed hereinabove would be construed to be an opinion on the merits of the case.

Petition allowed.
