
(2020) 12 P&H CK 0454

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous Petition (M) No. 18625 Of 2020

Ninder Pal

APPELLANT

Vs

State Of Punjab And
Another

RESPONDENT

Date of Decision: Dec. 29, 2020

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 164, 439
- Indian Penal Code, 1860 - Section 363, 366A, 376
- Protection Of Children From Sexual Offences Act, 2012 - Section 4, 8

Hon'ble Judges: Ashok Kumar Verma, J

Bench: Single Bench

Advocate: Divjyot S.Sandhu, Bhavna Gupta

Final Decision: Dismissed

Judgement

Ashok Kumar Verma, J

1. The matter is being taken up through Video Conferencing/WhatsApp due to pandemic of COVID-19.

2. This petition has been filed under under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.77 dated 22.10.2019 under

Sections 363, 366-A, 376 of the IPC and Sections 4 and 8 of the POSCO Act registered at Police Station Dhilwan, District Kapurthala.

3. The story put forth by the prosecution is that Paramjit Kaur wife of Karamjit Singh made a statement to the effect that the date of birth of her

daughter i.e. victim is 20.07.2002. She was studying in 10+1 class at Senior Secondary School, Dhilwan. On 21.10.2019, she went to school at 08.30

a.m. but had not returned home. They kept on searching but remained clueless. She had been enticed away by some unknown boy on the pretext of

marriage. Instant case under Sections 363/366-A of IPC was got recorded. During investigation on 24.10.2019, arrest of accused Ninder Pal was

effected and from his possession victim was got recovered. In view of the supplementary statement suffered by the victim and her statement under

Section 164 Cr.P.C, offence under Sections 376 of the IPC and Sections 4/8 of the POSCO Act have been added subsequently.

4. Learned counsel for the petitioner has submitted that the prosecutrix has attained majority during the course of trial and she is also ready to marry

the petitioner. The prosecutrix has suffered statement recorded under Section 164 Cr.P.C. during the course of cross-examination before the trial

court wherein she had stated that she left her house on her own and accompanied the petitioner voluntarily as she wanted to marry him. Learned

counsel has further submitted that the petitioner is in judicial custody since 24.10.2019 and trial would take a long time to conclude. No useful purpose

would be served by keeping the petitioner behind the bars.

5. Learned counsel for the State has vehemently opposed the grant of bail to the petitioner. Learned counsel has submitted that the allegations against

the petitioner are serious in nature and he does not deserve the concession of bail.

6. I have heard learned counsel for the parties and gone through the paper-book.

7. It is not disputed that the prosecutrix was below the age of 18 years at the time of commission of offence. A perusal of the statement of the

prosecutrix recorded on 17.12.2020 before the trial court which is already on record shows that the prosecutrix has supported the case of the

prosecution and categorically deposed that on 21.10.2019, the petitioner called the prosecutrix at Miani Bus Stand, Dhilwan on the pretext that he will

marry her on the very same day. After making excuse that she was going to school, she left house and reached at the said Bus Stand where the

petitioner/accused was already present and waiting for her. Petitioner took her towards road leading to Dhaliwal Bet. Thereafter, he took her to one

motor near to the village situated in fields where they stayed for two days and the petitioner developed physical relationship with the prosecutrix daily,

without her consent. Thereafter, the petitioner told her that they should go to Jalandhar as anybody can make complaint against them. They went to

Baba Bakala on foot through fields where the villagers apprehended them and took them to the Police Station. She further deposed that

petitioner/accused deceived her and committed rape upon her without her consent on the pretext of marrying her. She also identified the

petitioner/accused through Video Conferencing.

8. Having regard to the totality of the facts and circumstances of this case, coupled with the above said statement made by the prosecutrix before the

trial court and without expressing any opinion on the merits of the case, I do not deem it fit to grant the concession of regular bail to the petitioner. This

petition is dismissed.