
(2020) 04 P&H CK 0007

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 3018 Of 2020

Jaswant Kaur

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision : 17-04-2020

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 365, 376D
Protection Of Children from Sexual Offences Act, 2012 — Section 6

Citation : (2020) 04 P&H CK 0007

Hon'ble Judges : Gurvinder Singh Gill, J

Bench : Single Bench

Advocate : Amit Sharma, Gaurav Dhuriwala

Final Decision : Disposed Of

Judgement

Gurvinder Singh Gill, J

1. The petitioner has approached this Court seeking issuance of a direction to respondents No. 2 and 3 to consider her representation dated 19.03.2020

(Annexures P-3 & P-4) and also to protect the lives and liberty of the petitioner and her daughter as she apprehends threat to the same at the hands

of the accused named in FIR No.434 dated 16.12.2019 under Sections 365, 376-D, 120-B IPC and Section 6 of POCSO Act, Police Station Sadar

Tarn Taran, District Tarn Taran.

2. It is the case of the petitioner that her daughter was gang-raped on the night intervening 10.12.2019 and 11.12.2019 regarding which FIR No.434

dated 16.12.2019 under Sections 365, 376-D, 120-B IPC and Section 6 of POCSO Act, Police Station Sadar Tarn Taran, District Tarn Taran lodged

at the instance of the petitioner's daughter (aged 16 years).

3. Learned counsel for the petitioner has submitted that although a period of about 4 months has elapsed but till date accused have not been arrested

who in fact reside in the same village where the petitioner and her daughter reside. It has further been submitted that the accused are in fact close to

â??Sarpanchâ?? of the village and on account of which the police is not arresting the said accused who in turn are threatening the petitioner and her

daughter to withdraw the case lodged against them. It has further been submitted that although swabs were taken from the body of the prosecutrix

immediately after lodging of FIR but till date the same have not been sent for chemical examination and that such delay could affect the result of

chemical examination.

4. Opposing the petition, the learned State counsel submits that the police shall do the needful in accordance with law and that some delay in doing the

needful occurred on account of the prevalent conditions where the police is mainly deployed for ensuring that all the citizens of India stay at home so as

to avoid contracting COVID-19. It has been submitted that swabs could not be sent for chemical examination due to lack of signatures of prosecutrix

and that swabs are presently lying in hospital.

5. I have considered rival submissions addressed before this Court. Needless to mention that the allegations mentioned in the FIR are serious and

accused ought to be arrested at the earliest. However, at the same time judicial notice can be taken of the prevalent conditions of spread of pandemic

where all the official machinery including the police is deployed for containing the spread of virus. In such circumstances, some delay in doing the

needful can be well explained. As such, it is directed that the police shall do the needful in accordance with law as far as arrest of accused and

investigation of the case is concerned while prioritising the duties assigned pertaining to containment of spread of COVID-19.

6. However, as far as the allegations pertaining to alleged threats to the petitioner and her daughter are concerned, Senior Superintendent of Police,

Tarn Taran-respondent No.4 shall have the same examined and in case it is found that the accused have been threatening the petitioner or her

daughter, needful shall be done at the earliest.

7. As regards the swabs which are stated to be lying in the hospital and have not been sent for chemical examination on account of lack of signatures

of the prosecutrix, the police is directed to get the signatures of prosecutrix on the forwarding letter/requisite forms by deputing some lady police

official who shall visit the residence of the petitioner for obtaining such signatures and the prosecutrix be not asked to come to the police station or

hospital for the said purpose. The needful regarding sending of sample for chemical examination be done at the earliest, in case it can not be preserved

for long. The petition stands disposed of with the aforesaid directions.

8. A copy of this order be sent to respondent No.4-Senior Superintendent of Police, Tarn Taran so as to enable him to do the needful.