

**Simratpal Singh @ Happy Vs. Simratpal Singh @ Happy**

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**SooperKanoon Citation :** [sooperkanoon.com/1068332](http://sooperkanoon.com/1068332)

**Court :** Punjab and Haryana

**Decided On :** Jan-10-2013

**Appellant :** Simratpal Singh @ Happy

**Respondent :** Simratpal Singh @ Happy

**Judgement :**

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH Criminal Miscellaneous not M-37685 of 2012 (O & M) Date of Decision: January 10, 2013  
Simratpal Singh @ Happy ..... PETITIONER(S) VERSUS State of Punjab .....  
RESPONDENT(S) . . . CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI . . . PRESENT: - Mr. Gulshan Sharma, Advocate, for the petitioner. Ms. Harsimrat Rai, Deputy Advocate General, Punjab. . . . Naresh Kumar Sanghi, J (Oral)  
1. Prayer in this petition is for grant of regular bail to petitioner, Simratpal Singh @ Happy son of Nirbhai Singh, resident of village Mahal Khurd, District Barnala, who has been indicted for having committed the offences punishable under Sections 363, 366-A, 376, 120-B, IPC in a case arising out of FIR No.39, dated 16.7.2012, registered at Police Station, Punjab Agricultural University, Ludhiana.

2. According to the prosecution version, the CrI. Misc. not M-37685 of 2012 [2]. FIR in question was registered on the basis of statement suffered by father of the prosecutrix. As per the FIR, the prosecutrix was born on 25.6.1997 and she had studied upto 6th class. The prosecutrix used to go to Haibowal for painting work on clothes. Ashok Kumar, co-accused of the petitioner, used to visit the Dargah which

was situated near the house of the complainant. Said Ashok Kumar was working as a Driver with Blue Dart Company. The complainant had warned Ashok Kumar, not to tease the prosecutrix. On 12.7.2012, the complainant found that the prosecutrix was missing from his house. On 14.7.2012, at about 12:00 AM, the prosecutrix came back to her house. On 16.7.2012, the prosecutrix told the complainant that on the night of 12.7.2012, Ashok Kumar alongwith the petitioner approached her and took her in a Bolero vehicle. Thereafter, one lady and a male person also sat in the said Bolero vehicle. They visited several places and Ashok Kumar, co-accused of the petitioner, committed rape on the prosecutrix against her will and without consent.

3. Learned counsel for the petitioner contends that it is the conceded case of the prosecution that the petitioner has not performed the sexual act with Crl. Misc. not M-37685 of 2012 [3]. the prosecutrix. He further submits that the petitioner is behind the bars since 24.7.2012 and after investigation, the chargesheet (report under Section 173 Cr.P.C.) has already been submitted before the learned Area Judicial Magistrate, therefore, the petitioner is no more required for the purpose of investigation. Learned counsel further contends that the main accused, Ashok Kumar and the remaining accused have not been arrested by the police. He further submits that the only allegation against the petitioner is that he was a driver of the alleged vehicle in which the prosecutrix was sitting. Learned counsel further contends that the petitioner is an employee with Blue Dart Company and he is neither required not involved in any other case.

4. Learned counsel for the State, on instructions from Assistant Sub Inspector - Mohan Lal, Police Station, Punjab Agricultural University, Ludhiana, admits the fact that the petitioner is behind the bars since 24.7.2012 and the chargesheet has already been submitted before the learned Area Judicial Magistrate. She further concedes that the petitioner is no more required by the police for the purpose of investigation, however, she has opposed the grant of bail to the Crl. Misc. not M-37685 of 2012 [4]. petitioner.

5. Heard.

6. The allegation of rape is against Ashok Kumar, who has not been arrested by the police. The only allegation against the petitioner is that he was driving the vehicle in which the prosecutrix was taken by Ashok Kumar to different places. The petitioner is behind the bars since 24.7.2012. Chargesheet has already been submitted before the learned Area Judicial Magistrate. The further incarceration of the petitioner is not just.

7. Keeping in view the totality of the facts and circumstances of the case, the present petition is allowed. Petitioner, Simratpal Singh @ Happy son of Nirbhai Singh, resident of village Mahal Khurd, District Barnala, is ordered to be released on bail in this case, during the trial, subject to his furnishing bail bonds to the satisfaction of the learned Chief Judicial Magistrate/Duty Magistrate, Ludhiana. (Naresh Kumar Sanghi) January 10, 2013 Judge avin

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