

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Criminal Misc. No. M-23783 of 2015
Date of Decision: 21.09.2015**

Vicky @ Vikram Kumar

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. *Whether reporters of local newspapers may be allowed to see judgment?*
2. *To be referred to reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Present:- Mr. Vipin Mahajan, Advocate
for the petitioner (s).

Mr. Gurinderjit Singh, DAG, Punjab.

HARI PAL VERMA J.(Oral)

Prayer in the present petition filed under Section 439 CrPC is for grant of regular bail to the petitioner in case FIR No.36 dated 16.4.2015 under Sections 376, 34 IPC registered at Police Station Kanwan, District Pathankot.

Learned counsel for the petitioner contends that as per the FIR, no allegation of commission of rape has been made against the petitioner. The only allegation against the petitioner is that he was standing outside the shop along with some unknown person.

He refers to the statement of the prosecutrix Aarti Devi dated

17.4.2015, which is reproduced as under:-

“Stated that I was serving in Goyal Hospital, Patel Chowk, Pathankot as Nurse and my duty hours were from morning 9:00 A.M. to night 9:00 P.M. Pardeep Kumar was also doing job in the said Hospital. On 14-04-2015 at about 9/9:15 P.M., I went to Patel Chowk for taking some articles then there met me Pardeep Kumar. He stated me to stop for a while, he will drop you to Hospital. Then after a while, he came there having Ice Cream and asked to eat Ice Cream and then he will drop me to Hospital. I felt inebriated with the Ice Cream and I became unconscious, then I could not ascertain the side where he is taking me. He took me towards Sarna side shops at Chhotti Nehar and then he called his friends on phone out of which one was Vikram and other was Prince. Vikram kept standing outside. Price and Pradeeptook her inside the shop. Vikram closed the shutter of the shop. Prince and Pradeep beat me and both committed rape upon me one after other forcibly and threatened me to kill if I told about this to anybody. Thereafter, both the accused left me in the Hospital. I narrated the entire incident to my family members and got the case registered. The statement is read and is correct.

RO & AC

SD/- Arti in Punjabi

**Sd/-
Jarnail Singh, CJM,
Dated 17-04-15”**

On the basis of the aforesaid statement, learned counsel
for the petitioner submits that the prosecutrix has improved her

version, taking a different stand. In any case, no role has been attributed to the petitioner.

Learned State counsel, on instructions from HC Ramesh Kumar, fairly submits that though the petitioner has not been named for offence under Section 376 IPC, he stood guard outside the shop. He submits that initially, case against the petitioner was registered under Section 376 IPC but, thereafter, offence under Section 376-D IPC was incorporated. He further states that as against the 19 witnesses, 14 witnesses have been examined.

Heard.

Considering the contents of the FIR, followed by statement of the prosecutrix Aarti Devi, this Court find that there is no allegation of commission of rape against the petitioner. Since the petitioner is in custody since 18.4.2015 and no incriminatory material has come against him, this petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court.

However, it is made clear that the observations made herein-above shall not be construed any expression on the merits of the case and the trial Court shall be at liberty to decide the case on the basis of available evidence.

September 21, 2015
AK

(HARI PAL VERMA)
JUDGE