

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

CRM No.M-26387 of 2015

Date of decision: 14.08.2015

Amit Thakur

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Amit Rana, Advocate for the petitioner.

Mr. Yashwinder Singh, DAG, Haryana
assisted by SI Karan Singh.

Jitendra Chauhan, J. (Oral)

By filing the present second petition under Section 438 of the Code of Criminal Procedure, the petitioner has sought anticipatory bail in case FIR No.449, dated 16.06.2015, registered under Sections 346, 376-D, 328, 385 and 506 IPC, at Police Station Sirsa City.

It is contended that the petitioner never made a phone call to the prosecutrix on the alleged date of occurrence. In fact, the prosecutrix herself approached the petitioner. The learned counsel refers to Annexure P-3, the statement made by the prosecutrix under Section 164 Cr.P.C., wherein there is no reference of committing rape

by the petitioner whereas in the subsequent statement recorded under Section 164 Cr.P.C., the prosecutrix has unfolded the facts with regard to rape committed by the petitioner upon her. The learned counsel further states that the prosecutrix is a major and on the date of occurrence, the petitioner was on duty.

On the other hand, the learned State counsel submits that prosecutrix has clarified that on 19.06.2015, when her first version under Section 164 Cr.P.C., was recorded she was under severe stress in the absence of emotional support of her husband. However, after her husband emotionally handled the prosecutrix, she gathered strength and made the statement on the next very day i.e. 20.06.2015. The learned counsel further states that the petitioner was in constant touch with the prosecutrix as per the call details record.

Heard.

Keeping in view the totality of the circumstances the bail is sought on the ground that there is certain contradiction in the two statements made by the prosecutrix under Section 164 Cr.P.C.. The explanation rendered by the prosecutrix that when the first version under Section 164 Cr.P.C. was recorded she was under extreme stress and the correct circumstances could not be reflected in the statement as she was scared of the repercussion. The subsequent statement made by the prosecutrix under Section 164 Cr.P.C. is self explanatory wherein she has specifically states that she was scared of

the circumstances of the repercussion of the situation as the same was made in the absence of her husband. However, after gaining the confidence and emotional support of her husband, she made the subsequent statement on 20.06.2015 which is duly corroborated from the other surrounding circumstances.

In view of above, no case for bail is made out.

Dismissed.

14.08.2015

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(JITENDRA CHAUHAN)
JUDGE