

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

CRM-M-40552-2015 (O&M)

Date of Decision: December 4, 2015

Vinod Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.L.S.Sidhu, Advocate
for the petitioner.

Mr.K.S.Pannu, DAG, Punjab.

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

NARESH KUMAR SANGHI, J.(Oral)

Prayer in this petition, filed under Section 439, Cr.P.C., is for grant of regular bail to the petitioner, Vinod Kumar, son of Ami Lal, resident of village Khaira Khurd, Tehsil Sardulgarh, District Mansa, who has been booked for having committed the offences punishable under Sections 376/511 and 456, IPC, (wrongly mentioned as 376(C)/511 and 456, IPC) in a case arising out of FIR No.99, dated 14.07.2015, registered at Police

Station, Sardulgarh, District Mansa.

Learned counsel contends that as per prosecution version, three persons including the petitioner had entered into the house of the prosecutrix at 3.00 a.m. by scaling the wall and attempted to commit rape upon her (prosecutrix). The father-in-law of the prosecutrix woke up and thereafter the accused ran away from the spot. The motorcycle of the petitioner was found parked outside the house of the prosecutrix. He further pointed out that after 14 days of the said occurrence the matter was reported to the police. It has also been pointed out that even if the whole case of the prosecutrix is taken at its face value, then also it would be a case of outraging the modesty of a woman and not an attempt to commit the rape, since it has not been substantiated that the petitioner and his co-accused had gone to the stage of attempting to commit the rape. He further submits that during investigation the stand of the prosecutrix was found false since there was no involvement of the co-accused of the petitioner. He further points out that the petitioner is behind the bars from 16.07.2015 and after completion of the investigation, the charge-sheet (challan) has been presented before the Court below.

Learned counsel for the State has not controverted the fact that the FIR was lodged after 14 days of the occurrence and the involvement of the two co-accused of the petitioner was not substantiated during investigation and, as such, the charge-sheet (challan) was presented against the petitioner only.

After hearing the learned counsel for the parties and going through the material available on record, this Court finds that applicability of Section 376 read with Section 511, IPC, would be a moot point during trial. The petitioner, who is neither required nor involved in any other case, is behind the bars from 16.07.2015 and after completion of the investigation, the charge-sheet (challan) has also been presented.

Keeping in view the totality of the facts and circumstances of the case, the present petition is allowed. Petitioner- Vinod Kumar, son of Ami Lal, resident of village Khaira Khurd, Tehsil Sardulgarh, District Mansa, is ordered to be released on bail during pendency of the trial of the present case subject to his furnishing bail bonds to the satisfaction of learned Chief Judicial Magistrate/ Duty Magistrate, Mansa.

December 4, 2015
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(NARESH KUMAR SANGHI)
JUDGE