

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

CRM-M-39274-2018

Date of decision: 14.09.2018

Shiv Kumar @ Dar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

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

Mr. P. P. Chahar, DAG, Haryana.

JAISHREE THAKUR, J. (ORAL)

This is a petition that has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 30 dated 16.02.2017 under Sections 365, 376 & 451 and Section 4 of Protection of Children from Sexual Offence Act, 2012, registered at Police Station Badhra, District Charkhi Dadri.

It is contended by learned counsel for the petitioner that the name of the petitioner has not been reflected in the FIR and even in her statement under Section 164 Cr.P.C. or in the statement made before the Court, there is no allegation of rape that has been made against him and such allegation pertains to Akshay @ Ravi. It is also contended that the petitioner herein has been in custody since 21.02.2017 and the trial has yet not concluded. In this background, he prays for grant of bail to the petitioner.

Mr. P. P. Chahar, learned DAG, Haryana does not dispute the fact that the name of the petitioner is not reflected in the FIR and that no allegation has been raised against him either in the statement under Section 164 Cr.P.C. or in the statement made before the trial Court. It is also submitted that out of total 26 witnesses only 10 have been examined.

I have heard learned counsel for the parties.

In view of the fact that the petitioner herein has been incarcerated since 21.02.2017 and the statements that have been recorded of the prosecutrix under Section 164 Cr.P.C. and in the Court, prima facie do not reflect any allegation of rape against the petitioner herein, the trial is likely to take some time to conclude since out of 26 witnesses 10 have been examined, the present petition is allowed. Without expressing any opinion on merits of the case, the petitioner is ordered to be released on regular bail on furnishing bail bonds and surety bonds to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, concerned subject to following terms:-

- (i) The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- (ii) In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the accused shall have to apply for bail afresh before the trial Court.

(iii) He shall not leave the country without the previous permission of the Court.

14.09.2018

Satyawan

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes.
No.