

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-4007 of 2018

Date of Decision: 07.02.2019

Bikram Chaudhary

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

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

Present:- Mr. C.S. Rana, Advocate
for the petitioner.

Mr. Jagmohan Ghumman, DAG, Punjab.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 438 of the Code of Criminal Procedure, 1973 is for grant of anticipatory bail to the petitioner in case FIR No.0337 dated 31.10.2018 under Sections 376, 511 IPC and Sections 3 and 4 POCSO Act registered at Police Station Division No.7, District Ludhiana.

The aforesaid FIR was registered on the statement of the prosecutrix, as per which, on 31.10.2018 at about 4.00 A.M., when the prosecutrix had gone the rooftop of her house for toilet, taking advantage of darkness, her neighbour Bikram Chaudhary, the present petitioner, caught hold of her from behind and gagged her mouth and attempted to commit rape.

Counsel for the petitioner has argued that the alleged offence has been committed at the roof of the house, however, it is not humanely possible to enter the roof, particularly when the main door is locked from inside.

Learned State counsel has produced the statement of the prosecutrix under Section 164 CrPC, wherein she has specifically stated that on the relevant date, the petitioner entered into her house and caught hold of her at the top of the roof and gagged her mouth and committed rape upon her.

I have heard learned counsel for the parties.

The argument put forward on behalf of the petitioner that rape has not been committed, as per the initially version of the complainant, cannot be accepted at this stage, particularly when the prosecutrix has specifically made statement under Section 164 CrPC that the petitioner has committed rape upon her.

Accordingly, the present petition is dismissed.

February 07, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No