

225-A

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

CRM-M-5422 of 2019.

Decided on:- March 20, 2019.

Hardeep Kumar @ Golu.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

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

Present:- Mr. Ashok Giri, Advocate
for the petitioner.

Mr. Jagmohan Ghumman, D.A.G, Punjab.

Mr. J.S. Thakur, Advocate
for the complainant.

HARI PAL VERMA, J. (Oral)

Petitioner Hardeep Kumar @ Golu has filed present petition under Section 439 Cr.P.C. for grant of regular bail in FIR No.284 dated 04.10.2018 under Sections 376 and 506 IPC and Sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Phillaur, District Jalandhar.

Learned counsel for the petitioner has argued that the petitioner was not named in the FIR and it is on the basis of supplementary statement recorded after 3 days of the registration of the FIR, he has been involved in the crime. The alleged incident had occurred on 17.09.2018, whereas the FIR

in question was registered on 04.10.2018. During investigation, the petitioner was found innocent and accordingly, the police moved an application for his discharge, however, the same was disposed of by learned Sub-Divisional Judicial Magistrate, Phillaur vide order dated 05.12.2018 with a direction to the police to investigate the matter again by an officer not below the rank of Superintendent of Police. It is, thereafter, Superintendent of Police had investigated the matter and again found the petitioner innocent and forwarded the report to the concerned Court on 16.03.2019 for its acceptance.

He has further argued that the allegation of commission of offence of rape, if any, is against co-accused Vicky. The petitioner is in custody since 25.11.2018 and the only allegation against him is that he facilitated Vicky to commit the offence of rape while guarding the room from outside.

Learned State counsel, on instructions from ASI Ravinder Singh states that during investigation conducted by the Superintendent of Police, the petitioner has been found innocent.

Learned counsel for the complainant has argued that the petitioner was one of the accused in the case and because of his presence the other accused Vicky committed the offence of rape upon the prosecutrix. He has been named by the prosecutrix in her statement recorded under Section 164 Cr.P.C.

Having heard learned counsel for the parties and considering the fact that there is no allegation of rape against the petitioner in the FIR, coupled with the fact that the police, after the investigation had submitted an

application for discharge of the petitioner in the case, this Court finds that the petitioner deserves to be admitted on bail.

Therefore, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing adequate bail and surety bonds to the satisfaction of learned trial Court.

However, it is made clear that in case the petitioner influences the prosecution witnesses in any manner directly or indirectly, the prosecution shall be at liberty to seek cancellation of his bail.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case without being influenced with these observations in any manner.

March 20, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No