

219.

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

CRM-M-9236-2019

Date of decision:07.03.2019

HITESH KUMAR

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. J.P. Jangu, Advocate,
for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

HARI PAL VERMA, J.(Oral)

This is second petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.365 dated 17.10.2018 registered under Sections 354-A, 376, 506, 509 of IPC and Section 66-E of I.T. Act, at Police Station R. Park Gurugram, District Gurugram.

The earlier petition i.e. CRM-M-5100-2019 titled as "Hitesh Kumar Versus State of Haryana", was dismissed as withdrawn vide order dated 07.02.2019, as the offence under Section 66-E of the I.T. Act was not mentioned in the petition.

Learned counsel for the petitioner has argued that the petitioner is in custody since 18.10.2018. The statement of the prosecutrix is not consistent and she is improving her statement one after another. He states that the statement recorded under Section 164 Cr.P.C. at two different times, is at variance. He refers to the whatsapp chat (Annexure P-2-colly) between

the petitioner and the prosecutrix to substantiate the fact that they were

known to each other and in any case even if it is assumed that they had relations, that were consensual.

Learned State counsel, on instructions from ASI Dharamveer, states that the petitioner is the uncle of the prosecutrix in relation and has been committing rape upon her after threatening her to viral the photos recorded in the mobile. The petitioner has been extended threats to the prosecutrix that he will eliminate her father and brother.

I have heard learned counsel for the parties.

The statements recorded at two different times have been perused. Both are at variance. The culpability is required to be established during trial. Petitioner is in custody since 18.10.2018. Accordingly, this Court finds that the petitioner deserves to be admitted on bail.

Accordingly, present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial court shall decide the case on the basis of available material.

(HARI PAL VERMA)
JUDGE

07.03.2019
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No