

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

CRM-M-8534 of 2019.

Decided on:- March 07, 2019.

Harvinder Singh Harpalpur.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

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

Present:- Mr. Jasjit Singh Bedi, Senior Advocate with
Mr. Sonpreet S. Brar, Advocate
for the petitioner.

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

Mr. Pushpinder Kaushal, Advocate
for the complainant.

HARI PAL VERMA, J. (Oral)

Learned senior counsel appearing for the petitioner states that due to some typographical error, Section 129-B IPC has been mentioned instead of offence under Section 120-B IPC in the head note, paragraph No.4 and prayer clause of the petition. Therefore, the said mistake is required to be rectified.

The Registry is directed to make necessary correction in the head note, paragraph No.4 and prayer clause of the petition. Section 129-B IPC be read as Section 120-B IPC.

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.98 dated 01.11.2018 under Sections 420, 376-D, 506 and 120-B IPC registered at Police Station Ghanaur, District Patiala.

Learned senior counsel for the petitioner has argued that the petitioner has been implicated in the present case at the instance of local MLA, who belongs to the ruling party. He relies upon the affidavit dated 29.01.2019 (Annexure P-3) submitted by the complainant, wherein it is mentioned that it is the police, which has concocted the story and the FIR has been registered on wrong facts. The police has taken thumb impressions of the complainant on blank papers and misused these signed papers.

He further states that the petitioner is in custody since 10.01.2019. The Challan has already been presented in the case on 11.03.2019 and conclusion of trial will take sufficient long time. The complainant has furnished the affidavit stating therein that her thumb impressions were taken on various blank papers by Ghanaur police and it is on those blank papers, the police has fabricated the story. The police has recorded her statement which was never read over to her and, therefore, her illiteracy has been misused.

Learned counsel for the complainant admits the execution of the affidavit dated 29.01.2019 (Annexure P-3) by the complainant.

However, learned State counsel, on instructions from ASI Balbir Singh, states that no doubt, the petitioner is in custody since 10.01.2019, but this fact is required to be considered as to whether she has given blank papers duly thumb marked to the police or otherwise. There are four other cases against the petitioner, which does reflect the criminal intent of the petitioner. He further states that the complainant has given an interview to the TV channel, namely, Live Sachi Khabar making verbatim facts as stated in the

F.I.R. Therefore, in case the complainant has furnished an affidavit changing her F.I.R. version, she needs to be proceeded under law.

I have heard learned counsel for the parties.

At this stage, the affidavit dated 29.01.2019 (Annexure P-3) furnished by the complainant cannot be ignored lightly. The petitioner is in custody since 10.01.2019 and the affidavit was furnished on 29.01.2019. The execution of said affidavit has duly been accepted by learned counsel for the complainant. The question as to whether the said affidavit has been obtained under duress is required to be adjudicated during trial.

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, or he is found involved in any other case of similar nature, 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 07, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No