

226.

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

CRM-M-15251-2019

Date of decision:01.05.2019

SHARANJIT SINGH

... Petitioner

versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Munish Puri, Advocate, for the petitioner.

Mr.Rana Harjasdeep Singh, DAG, Punjab.

Mr. Sandeep Saini, Advocate, for the complainant.

HARI PAL VERMA, J.(Oral)

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.33 dated 06.04.2018 registered under Section 376 of IPC and Section 4 of POCSO Act, 2012 at Police Station Kanwan, District Pathankot.

Power of attorney filed on behalf of complainant in court today, is taken on record.

The aforesaid FIR was registered at the behest of Rekha Devi who is a mother of the prosecutrix to the effect that on 31.03.2018, the petitioner and his wife Preet Kaur, having two daughters, had taken away the daughter of the complainant to Village Gobindsar, Police Station Kanwan, on the pretext that death ceremony of Dalip Singh, who is father-in-law of the sister of the petitioner. On the night the petitioner-Sharanjit Singh along with his wife Preet Kaur were on double bed and the prosecutrix slept on a separate bed. However, after some time, the petitioner came on the bed of

hand on her mouth, he forcibly committed rape upon the prosecutrix and threatened her not to disclose it to anybody. The prosecutrix has narrated the whole story to her mother who further shared it with her husband.

Counsel for the petitioner has argued that apart from the fact that the petitioner is in custody since 07.04.2018, the material witnesses which include the complainant and the prosecutrix, have not supported the case of the prosecution and have been declared hostile. Therefore, chances of conviction are quite bleak.

Learned State counsel, on instructions from ASI Balkar Singh, states that the prosecutrix is about 17 years of age and since the petitioner has committed the offence as narrated in the FIR, the arguments of the counsel for the petitioner that the material witnesses have been declared hostile is of no consequence as the petitioner can still be convicted on the basis of medical evidence and the statement made by the prosecutrix under Section 164 Cr.P.C.

However, counsel for the complainant has not opposed the present petition and supported the arguments raised on behalf of the petitioner in the Court.

I have heard learned counsel for the parties.

The petitioner is in custody since 07.04.2018. As against 16 witnesses cited by the prosecution as many as 8 witnesses have already been examined and material witnesses have not supported the case of the prosecution. The culpability of the petitioner is yet to be established during the trial, thus this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is

the satisfaction of trial Court.

It is made clear that the petitioner shall not influence any witness directly or indirectly and in the event of such influence, 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 are only for the limited purpose of consideration of the bail petition.

(HARI PAL VERMA)
JUDGE

01.05.2019
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Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No