

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-15224 of 2019

Date of Decision: 10.6.2019

Mohd. Irfan

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Ms. Naresh Sharma, Advocate, for
Mr. Sanjeev Sharma, Advocate,
for the petitioner (s).

Mr. Deepak Sabharwal, Addl., AG, Haryana

RAJ SHEKHAR ATTRI, J.

The present petition has been filed under Section 439 Code of Criminal Procedure (in short, “Cr.P.C”) for grant of regular bail to the petitioner in case FIR No.41 dated 21.7.2018 registered for the offences punishable under Sections 328, 342, 506, 376-D, 120-B, 370 of Indian Penal Code (for short, “IPC”) and Sections 3, 4, 5, 5A, 5B, 5C, 6, 7, 9 of Immoral Traffic Prevention Act at Police Station Women, District Panchkula.

This is a tale of a hapless woman who belongs to lower strata of the society and who has been thrown to flesh trade by exploiting her economic condition. The prosecutrix is a married lady who has been staying somewhere in the beautiful city of Chandigarh along with her husband for the purpose of better avenues of income. Main accused-Sunny petitioner is

urbanised colony called Morni situated on the border of Himachal Pradesh and Haryana. Said Sunny was somewhat known to the husband of the prosecutrix and visiting them. He lured the prosecutrix and her husband by showing green avenues by promising that he will pay ₹ 12000/- to the prosecutrix, who has to do domestic chores in his farm house such like cleaning and washing utensils as the said accused Sunny has been in the habit of organising functions (in local parlance, “party”). Thus, he took her with him on 15.7.2018 at about 2:00 p.m. under said assurance and brought her at his farm house. Even on the first day, she was given some sedative substance and taking benefit of her condition, the petitioner committed rape upon her with some of his companions. When she requested them that she be allowed to talk to her husband, she was not allowed to do so and her mobile was snatched from her. Even the husband of the prosecutrix tried to speak to Sunny accused but he was also not allowed to talk with his wife.

Sunny snapped numerous photographs of the prosecutrix in different dresses and transmitted it by whatsapp and other different means to the customers. The prosecutrix was treated as a tool of sex game and she was provided to 10 to 12 persons per day. This continued up to 18.7.2012 till afternoon. However, she managed to give a phone call to her husband and narrated the worst experience in the farm house. Her husband came there and he took her to Panchkula and where he called the police by dialing 100 from his mobile phone. She then visited the police station Sector 5 Panchkula, but her statement was not recorded. Rather, the officials of women police station asked her to get her complaint lodged in Manimajra police station. Thereafter, she along with her came to Manimajra police

and she was medico-legally examined which affirmed the commission of rape.

I have heard learned counsel for the parties and gone through the record.

Learned counsel for the petitioner has submitted that there is no role of the petitioner in the commission of crime; that he was lured by main accused Sunny to provide employment to his wife and that said accused also promised them to provide employment to the petitioner in the farm house and on this pretext, he sent his wife with the accused in a bonafide manner and there is no other person except the petitioner to look after the prosecutrix and her children.

On the other hand, learned State counsel has submitted that the petitioner has himself sold his wife for the purpose of prostitution.

I have given my thoughtful consideration to the rival contentions and gone through the material available on record.

After going through the record, it seems that no specific role has been attributed to the petitioner and it is submitted that main accused Sunny asked the petitioner to send his wife to perform different domestic chores in the farm house.

Without expressing any opinion on the merits of the case and keeping in view the fact that conclusion of trial will take considerably long time, the present petition is allowed. Petitioner-Mohd. Irfan son of Shri Vaserudeen is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate subject to following terms:-

- (a) The petitioner shall comply with the conditions

mentioned in Section 437(3) Cr.P.C.

- (b) In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- (c) He shall not leave the country without the prior permission of the Court.

June 10 , 2019

Paritosh Kumar

**(RAJ SHEKHAR ATTRI)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No