

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

CRM-M-18703-2019 (O&M)

Date of decision: 15.5.2019

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... Petitioner(s)

VERSUS

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. D.S. Matya, Advocate.
for the petitioner.
Mr. Pawan Garg, AAG, Haryana.
Mr. Saleem Ahmed, Advocate,
for the complainant-respondent No.2.

RAJ SHEKHAR ATTRI, J. (Oral)

The present petition has been filed under Section 438 Code of Criminal Procedure for grant of anticipatory bail to the petitioner in case FIR No.91 dated 15.10.2018 registered for the offences punishable under Sections 323, 354-B, 452, 376 of Indian Penal Code and Section 25 of Arms Act, at Police Station Women, District Nuh.

On oral request of the counsel for the petitioner, this Court impleads complainant-Ms.Shabnam daughter of Farooq resident of Hebtaka, PS Nagina, District Nuh as respondent No.2.

Mr. Saleem Ahmed, Advocate, has appeared for the complainant and filed his power of attorney which is taken on record.

Initially, the FIR was lodged by the prosecutrix against the petitioner regarding making attempt to commit rape upon her on 13.10.2018 by entering into her house at about night time. Thereafter, her statement

formal FIR was registered on 15.10.2018. However, she was produced before the Magistrate on 16.10.2018 and she has categorically stated that in fact she was subjected to rape putting her under the threat with a pistol.

Learned counsel for the petitioner has submitted that the factum of rape is an improvement and nothing has been mentioned in the FIR.

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

The first statement of the prosecutrix was recorded on 15.10.2018 on the basis of which formal FIR was registered. She has alleged that the petitioner had entered her house and made an attempt to commit rape but in her statement under Section 164 of the Cr.P.C. which was recorded by learned Judicial Magistrate, she has categorically stated that she was subjected to rape. It shall be considered by the trial court as to which statement is acceptable and the probative value of both the statements shall be considered at the appropriate stage of the trial.

Learned State counsel states that the police wants to recover pistol from the petitioner. To the mind of this Court, custodial interrogation is necessary.

Keeping in view the facts and the circumstances of the case, the petitioner is not entitled to anticipatory bail.

Dismissed.

(RAJ SHEKHAR ATTRI)
JUDGE

May 15, 2019
Paritosh Kumar

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No