

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

**Criminal Misc. No.M-47983 of 2018 (O&M)
Date of Decision: 10.01.2019**

Sanjay

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

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

Present:- Mr. Bhisham Kumar Majoka, Advocate
for the petitioner.

Ms. Mahima Yashpal, AAG, Haryana.

HARI PAL VERMA, J. (Oral)

CRM-271-2019:

Prayer in this application filed under Section 482 CrPC is for placing on record the copy of statement of Shobha, complainant, made during trial on 06.12.2018 as Annexure P-3.

The application is allowed. Statement of Shobha, complainant, is taken on record.

Criminal Misc. No.M-47983 of 2018:

Prayer in the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner in case FIR No.28 dated 23.03.2018 under Sections 323, 376(2) (n) and 506 IPC registered at Police Station Women, District Panipat.

Learned counsel for the petitioner has argued that the petitioner was married with the complainant and therefore, the question of rape does not arise. He further submits that the complainant has been

examined in the case as PW-2, whereby, she has not supported the prosecution version and has stated that the petitioner has not committed repeated rape upon her or caused voluntary hurt or extended threat to kill her and thereby, she has been declared hostile. The petitioner is in custody since 27.03.2018

Learned State counsel does not dispute the fact that the complainant has appeared as PW-2 and she has been declared hostile.

I have heard learned counsel for the parties.

Without observing anything on the merits of the case but taking into consideration the statement of the complainant whereby she has not supported the case of the prosecution and has been declared hostile. The culpability is yet to be established. The petitioner is in custody since 27.03.2018, this Court finds that no useful purpose will be served to keep the petitioner in custody any more. Therefore, this Court deems it appropriate to release him on regular bail.

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

Needless to say that the observations made hereinabove shall not construe any opinion on the merits of the case.

January 10, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No