

233.

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

CRM-M-22381-2019

Date of decision: 19.08.2019

AASHIK

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Kunal Dawar, Advocate,
for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

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, pending trial, in case FIR No.98 dated 01.12.2018 registered under Sections 363, 450, 506 of IPC and Section 6 of POCSO Act at Police Station Women, N.I.T., Faridabad.

Counsel for the petitioner states that the petitioner is in custody since 08.12.2018 and the bare perusal of the FIR does reflect that he has not been named as an accused. He further states that in her statement recorded under Section 164 Cr.P.C. on 01.12.2018, the prosecutrix has not named the petitioner as an accused. It is on the basis of another statement under Section 164 Cr.P.C. on 08.12.2018, she has made allegation against the petitioner. As per the statement under Section 164 Cr.P.C. dated 08.12.2018, Shakeel who is co accused in the case, had called the petitioner and the petitioner got the prosecutrix seated in his car and raped her. He further states that the

prosecutrix has improved her statement one after the other. No allegation

has been made in the initial version which is the very basis of the incident.

Learned State counsel, on instructions from ASI Anita, states that no doubt in the FIR and in the statement under Section 164 Cr.P.C. dated 01.12.2018, the petitioner has not been specifically named as an accused. The prosecutrix has stated that the petitioner was a friend of Hari Bhagat who along with Anil, Shakil and Bhoot have committed the offence of sexual assault upon the prosecutrix.

I have heard counsel for the parties.

As per the statement deposed by the prosecutrix, there were two incidents dated 12.11.2018 and 01.12.2018 and these incidents took place at about 12 O'clock/12.30 in the night when she was sleeping in her room situated on the first floor. Hari Bhagat and his three friends came to her room and they forcibly took her in a car to the jungle of Village Bhakri and committed rape upon her.

In the subsequent incident dated 01.12.2018, more or less similar allegations have been made. The petitioner was not specifically named in the initial version of the FIR as well as in the statement under Section 164 Cr.P.C. Accordingly, this Court giving benefit of the improvement in the version of the prosecutrix, deems it appropriate to admit the petitioner on bail.

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

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial court shall decide the case on the basis of available material.

(HARI PAL VERMA)
JUDGE

19.08.2019
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Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No