

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

**Criminal Misc. No.M-24334 of 2019
Date of Decision: 05.07.2019**

Varinder Singh @ Kaka

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

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

Present:- Mr. Sukhdev Singh Khokher, Advocate
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

HARI PAL VERMA, J. (Oral)

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.98 dated 24.11.2018 under Sections 376/506 IPC registered at Police Station Singh Bhagwantpur, District Rupnagar.

The aforesaid FIR was registered at the behest of Chhinder Kaur, as per which, on 23.11.2018, the husband of the prosecutrix, her sons and daughters-in-law had gone in relationship and at about 1-00 P.M., when she was cleansing utensils in the courtyard of her house, the petitioner came and caught hold of her arms with *mala fide* intention. He dragged her inside by shutting her mouth and after threatening to kill her, developed physical relations with her. In the meanwhile, Sonu, who is son of her brother-in-law, came there and pushed the petitioner aside and the petitioner fled away.

Learned counsel for the petitioner has argued that the prosecutrix is a married woman of about 50 years of age whereas the petitioner is of 29 years of age. There is no medical evidence to show that rape was committed on the person of the prosecutrix.

Learned State counsel does not dispute the custody of the petitioner. However, he submits that the petitioner has entered the house of the prosecutrix and committed rape upon her. As per the medical examination of the prosecutrix, the penetration was established. Moreover, the prosecution has supported her version during trial.

I have heard learned counsel for the parties.

As per the medical so suggested, though penetration was proved on the person of the prosecutrix, but no semen was detected and no such medical record has been produced before the Court to establish that the penetration was because of the petitioner or some other person. Thus, culpability is yet to be established during trial. Considering the fact that the petitioner is in custody since 25.11.2018 and trial in the case will take sufficiently long time, no useful purpose will be served to keep the petitioner in custody, I deem 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.

July 05, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No