

218.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27670-2019

Date of decision: 08.07.2019

FARHANUZZ ZAMA @ FARHANUZ ZAMA

... Petitioner

versus

STATE OF U.T. AND ANOTHER

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Jagmohan Ghumman, Advocate,
for the petitioner.

Mr. Manish Jain, APP, UT, Chandigarh.

HARI PAL VERMA, J. (Oral)

Petitioner-Farhunuzz Zama @ Farhanuz Zama has filed the present petition under Section 439 Cr.P.C. for grant of regular bail, during the pendency of trial, in FIR No.313, dated 27.12.2018 registered under Section 376 of IPC at Police Station I.T. Park, District Chandigarh.

Present FIR was registered on the complaint of Lorraine Goldsbrough. As per the FIR, on 20.12.2018 at about 10.45 AM, when the complainant along with Robert Alan Stephens was sitting outside on sun beds by the outside swimming pool at Hotel Lalit, then a member of staff from Rejuve Spa approached them. He asked them if they are interested for foot or head massage. They said they would think about it and then the Spa staff member later to be known as Farhanuz Zama (petitioner herein), took them up in the lift where they were shown their changing and asked to get

into gowns. A female was assigned to do Robert's massage and the petitioner sat in front of her. As the massage was progressed on her left leg, the petitioner started to go further up her leg above her thigh area. The petitioner began to massage her right leg once again the massage was to the right knee but gradually encroached to her groin area against her consent. He kept asking pressuring point, she kept saying no. He then came round to the back of her and started massaging her shoulders without her consent. His hand went into her bra at the left side. He told her to stand up and she thought they were leaving, then the petitioner without her consent forcefully inserted his finger into her vagina and started pressing the area.

Counsel for the petitioner has argued that in fact respondent No.2 was not comfortable with the hotel bills. Even otherwise, alleged incident took place on 20.12.2018 whereas the present FIR was registered on 27.12.2018 i.e. after a week when the complainant returned from Shimla along with her companion. He has further argued that apart from the fact that the complainant has not opted the internal medical examination, the medical report does not support the case of the prosecution. The petitioner is in custody since 31.12.2018 and the trial in the case will take sufficient long time as the complainant has left India, she being a British citizen and is not coming forward to depose in the case. Her non-appearance does support the fact that the very FIR was forged and motivated one.

Mr. Jain, learned counsel appearing on behalf of UT Chandigarh has filed the custody certificate of the petitioner in court today, which is taken on record. He does not dispute the custody. He, however, states that the petitioner touched the complainant inappropriately. The role

of the petitioner cannot be appreciated as it will have adverse affect on the business of the Hotel as well. Petitioner does not deserve the concession of bail as he has committed a serious offence.

I have heard learned counsel for the parties.

There is no dispute that the petitioner is in custody since 31.12.2018. The incident wherein the allegation against the petitioner is that he touched the complainant inappropriately, allegedly took place on 20.12.2018. Thereafter, the complainant along with the companion had gone to Shimla for a week or so and it is thereafter, the present FIR has been registered.

The argument of the counsel for the petitioner is that the complainant was not comfortable with the bills and it is for this reason, she has made a complaint against the petitioner. The complainant when was subjected to medical examination has not opted for internal medical examination, therefore, the culpability of the petitioner is yet to be established during the trial and that too when the complainant will come forward and depose in the case. The trial in the case is not going to be concluded in the near future. Thus, this Court 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

08.07.2019
sanjeev

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