

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

CRM-M-32168 of 2019.

Decided on:- September 18, 2019.

Deepak.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. Bhupinder Singh, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, A.A.G., Haryana.

HARI PAL VERMA, J. (Oral)

This is the second petition filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail in FIR No.94 dated 20.08.2018 under Sections 376(2)(n) and 506 IPC registered at Police Station Women, Panipat, District Panipat.

The earlier petition filed by the petitioner i.e. ***CRM-M-12175 of 2019*** was dismissed as withdrawn vide order dated May 28, 2019 passed by this Court.

Learned counsel for the petitioner states that apart from the fact that the petitioner is in custody since 13.09.2018, no allegation of rape has been made by the prosecutrix in her statement under Section 164 Cr.P.C. She had already compromised the matter with the petitioner by way of her affidavit dated 27.08.2015 (Annexure P-2).

He has further argued that the prosecutrix is in the habit of making such like false allegations. He has referred to the document (Annexure P-3) i.e. the copy of FIR No.558 dated 25.04.2014 under Sections 323, 376, 452 and 506 IPC as well as Section 25 of the Arms Act, 1959 registered against accused Tiger son of Ramdia at Police Station Panipat. After getting the said FIR registered, the prosecutrix compromised the matter with the accused and the said FIR was quashed by this Court.

He has further contended that there is no injury on the person of the prosecutrix so as to substantiate the very allegation of commission of rape. The physical relations between the parties, if any, were consensual in nature.

On the other hand, learned State counsel states that no doubt, the petitioner is in custody since 13.09.2018, but 9 witnesses have already been examined as against the total 15 witnesses cited by the prosecution. The prosecutrix has supported the case of the prosecution.

I have heard learned counsel for the parties.

The petitioner is in custody since 13.09.2018 and the prosecutrix has furnished an affidavit (Annexure P-2) dated 27.08.2015, wherein she has admitted that she remained in live in relationship with the petitioner for about 8 years and she had given sum of Rs.1.5 lakh to the petitioner as friendly loan out of which Rs.50,000/- were returned on 27.08.2015 and the petitioner promised her to return back the sum of Rs.50,000/- on 10.09.2015 and the remaining amount of Rs.50,000/- on 27.08.2016. Therefore, this Court finds that at this stage, it is sufficient to draw an inference that they were in live in

relations. Moreover, in the same affidavit (Annexure P-2), the prosecutrix has stated that they want to reside separately on the basis of compromise.

In this manner, taking into consideration the affidavit (Annexure P-2) and the fact that earlier also, she had got an FIR (Annexure P-3) registered against one Tiger, this Court finds that when the culpability is yet to be established and the trial is not likely to be concluded in near future, the petitioner deserves to be admitted on bail.

Therefore, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing adequate bail and surety bonds to the satisfaction of learned trial Court.

However, it is made clear that in case the petitioner influences the prosecution witnesses in any manner directly or indirectly, the prosecution shall be at liberty to seek cancellation of his bail.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case without being influenced with these observations in any manner.

September 18, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No