

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

CRM-M-31747 of 2019.
Decided on:- October 31, 2019.

Dharmender Balodi.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. Gaurav Gupta, Advocate
for the petitioner.

Ms. Priyanka Sadar, A.A.G., Haryana.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.426 dated 09.06.2019 under Sections 323, 506, 376 and 452 IPC registered at Police Station Mujesar, District Faridabad.

As per the FIR registered at the behest of the prosecutrix aged about 23 years, on 08.06.2019, the petitioner came to her house, started beating her and committed rape upon her without her consent. He also gave threat that in case she will tell about it to anybody, he will kill her and her children.

Learned counsel for the petitioner has argued that the petitioner is in custody since 13.06.2019. The prosecutrix and the petitioner are known

to each other since the year 2010 and they had relations since the year 2015. Earlier also, the prosecutrix had got an FIR No.79 dated 02.10.2018 under Sections 323, 341, 376 and 506 IPC registered against the petitioner at Women Police Station, N.I.T., Faridabad, wherein the matter was compromised and accordingly, the prosecutrix had turned hostile.

He has further contended that the prosecutrix has falsely implicated the petitioner just to grab money from him and she herself has inflicted injuries on her. The FSL report received in the case nowhere supports the case of the prosecution as regards the allegation of rape.

Learned State counsel, on instructions from ASI Sunder Singh, has argued that the petitioner had entered the house of the prosecutrix and had committed rape upon her. She was given five injuries by the petitioner including the injury No.5 i.e. circular contusion of size 3 inches over left upper and medial part of breast reddish in colour, bite mark and for this injury, opinion of surgeon was sought. However, as per surgeon opinion, the said injury was normal. The Challan has been presented in the case and now the case is fixed for recording prosecution evidence before the trial Court on 02.11.2019.

She has further submitted that as per FSL report, semen could not be detected on exhibit-1 (vaginal swabs), exhibit 2a (underwear), exhibit-2b (T-shirt) and exhibit-3 (breast swabs).

I have heard learned counsel for the parties.

The petitioner is in custody since 13.06.2019. The prosecutrix has made allegation of commission of rape by the petitioner, but the FSL

report does not support the allegation. Moreover, the injury No.5 on the person of the prosecutrix was found to be normal after surgeon's opinion. The conclusion of trial is likely to take long time as till date, no witness has been examined in the case. Therefore, when the culpability of the petitioner is yet to be decided during the trial, this Court finds that the petitioner deserves to be admitted on bail.

Accordingly, 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.

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.

October 31, 2019

Yag Dutt

**(HARI PAL VERMA)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No