

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

221

CRM-M-32731-2019

Date of Decision:23.10.2019

Ravinder Kumar Yadav

.....Petitioner

Versus

State of Haryana

.....Respondent

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

Present: Mr. Ashwani Talwar, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, 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.14 dated 29.04.2019 under Section 376 IPC, registered at Police Station GRP, Karnal.

The aforesaid FIR was registered at the behest of the prosecutrix. As per FIR during the intervening night of 21/22.04.2019, when the prosecutrix was traveling in Jammu All Express Train from Pathankot to Delhi around midnight, she found that a man was sitting near her feet. The complainant did not say anything presuming that he might be on waiting and all the space around was fully occupied. When she was in the deep sleep, she suddenly found that someone has brutally poked something into her vagina. She suddenly woke up and saw him running away. He went to the adjacent side lower berth S5 and started acting as he is sleeping. The prosecutrix shouted at him but everyone was sleeping and

when the prosecutrix has enquired from the petitioner he rather misbehaved and did not respond. Immediately, she has taken a picture of the accused with flash from her mobile camera and searched on google. By that time, the train has left Karnal Railway Station. However, when the train reached Delhi Railway Station, she found a policeman standing next to her window. She complained him as she was still feeling pain in her private organ. The heinous act committed by the accused with a stranger in a running public train is a serious issue and therefore, action was sought to be initiated against the petitioner.

Learned counsel for the petitioner has argued that the petitioner is in custody since 22.04.2019. He is Army Personnel working with the Indian Army on the post of Naik and was on his way so as to join his duty to Jodhpur. The prosecutrix has not opted for medical examination. As against total 23 witnesses cited by the prosecution, only 02 witnesses have been examined so far, trial in the case may take long time. He further states that even if the allegations are looked into from the face of it at the most it is a offence under Section 354 IPC and not offence under Section 376 IPC. He further states that there is variation in the statement of the prosecutrix. At one point of time, she has stated that she was wearing Dhoti Pajama and T-Shirt and also covered herself with a shawl, whereas in the same statement, she has stated that she was wearing trouser, which was not torn.

Learned State Counsel has produced on record statements of the prosecutrix as well as of other co-passengers traveling with her (prosecutrix) and on the strength of their examinations, she states that the prosecutrix has stood with her statement as made initially in the FIR.

Heard learned counsel for the parties.

Admittedly, petitioner is in custody since 22.04.2019. As against total 23 witnesses cited by the prosecution, only 02 witnesses have been examined so far. The complainant has been examined in the case. So far as contradiction in the statement as regards wearing dress by the prosecutrix is concerned, the same is required to be appreciated during the course of trial, of course on the basis of other evidence so adduced. Considering the fact that the petitioner is in custody since 22.04.2019 and trial in the case is not likely to be concluded in the near future, this Court deems it appropriate to admit the petitioner 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.

However, the observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall proceed with the trial independently without being influenced by the order of bail passed by this Court.

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

October 23, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No