

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-M-35211-2019

Date of Decision: September 02, 2019

Rinku @ Rinka

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Tejinder Pal Singh, 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 case FIR No. 197, dated 13.04.2019, under Sections 376, 354-A, 506, 34 IPC and Section 25 of the Arms Act (Sections 354-A, 34 IPC and Section 25 of Arms Act deleted later on), registered at Police Station Samalkha, District Panipat.

Learned counsel for the petitioner has argued that the aforesaid FIR has been registered at the behest of the prosecutrix, who is a married lady and about 42 years of age. The other co-accused referred in the FIR, namely, Irfan and Atta, brother of Bijender (i.e. other two persons named in the FIR) have been found innocent during the investigation. There is no medical evidence which may substantiate the very allegation that rape was committed upon the prosecutrix. The petitioner is in custody since

16.04.2019 and the trial in this case is not likely to be concluded in the near future as no prosecution witness has been examined. He referred to the statement of the prosecutrix dated 15.04.2019 (Annexure P/2) wherein it has been alleged that two persons, namely, Irfan and Atta have called the prosecutrix and the petitioner committed rape upon her. Once the other co-accused have been found innocent during the investigation, the story projected by the prosecutrix is highly doubtful.

Learned State counsel, on instructions from ASI Dilbagh Singh, does not dispute the custody.

I have heard learned counsel for the parties.

This Court has put a specific question to the State counsel as to whether during the investigation, the allegation of rape was established. However, no such medical record has been produced, so as to establish that the rape was ever committed upon the prosecutrix. Though the medical on the person of the prosecutrix was conducted, but during this medical examination, no external injury on any part of the body of prosecutrix was found.

Since the petitioner is in custody from 16.04.2019 and the other co-accused, namely, Irfan and Atta have been found innocent and the trial in this case is not likely to be concluded in the near future as no prosecution witness has been examined, this Court finds that the culpability of the petitioner is yet to be established during the course of the trial.

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.

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.

However, it is made clear that 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.

September 02, 2019
vkd

(Hari Pal Verma)
Judge

Whether speaking / reasoned : Yes / No

Whether reportable : Yes / No