

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

CRM-M-35234-2019

Date of Decision: September 02, 2019

Kamal

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Yashveer Kharb, 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. 552, dated 10.07.2019, under Sections 323, 452, 376-B and 506 IPC, registered at Police Station Panipat City, District Panipat.

Learned counsel for the petitioner has argued that the petitioner is in custody since 12.07.2019. The aforesaid FIR was registered at the behest of the prosecutrix, wife of the petitioner. On 09.07.2019 at about 2.00 P.M., the petitioner had entered the house of the prosecutrix. Firstly he asked her as to whether she will withdraw the case or not and thereafter, he committed wrong act with her against her wishes. Further while leaving the house, he (petitioner) threatened the prosecutrix and her son that he (petitioner) will kill both of them. He has further argued that there is a matrimonial dispute between the parties. The medical examination conducted on the person of the prosecutrix nowhere establish that the petitioner ever committed sexual assault/rape upon her. Moreover, the alleged incident has taken place on 09.07.2019, whereas FIR

was registered on 10.07.2019 and there is a delay of one day in lodging the FIR.

Learned State counsel, on instruction from ASI Pawan Kumar, does not dispute the custody of the petitioner. However, she has argued that the petitioner has trespassed to the house of the prosecutrix for which offence under Section 452 IPC has duly been added in the case. She has further argued that even if the petitioner is husband of the prosecutrix, he cannot commit the offence like the present one as the wife was residing separately from the petitioner.

Heard learned counsel for the parties.

A bare perusal of the FIR suggests that the alleged occurrence took place on 09.07.2019 at about 2.00 PM, whereas the present FIR was registered on 10.07.2019 at 8.47 PM. Therefore, there is a delay of around 30 hours in lodging the FIR. In the background of the matrimonial dispute between the parties and the petitioner is in custody since 12.07.2019, 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.

September 02, 2019

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(Hari Pal Verma)
Judge

Whether speaking / reasoned : Yes / No
Whether reportable : Yes / No