

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

231

CRM-M-36381-2019

Date of Decision:06.09.2019

Ashish @ Sunda

.....Petitioner

Versus

State of Haryana

.....Respondent

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

**Present: Mr. Sushil Sheoran, Advocate,
for the petitioner.**

Ms. Priyanka Sadar, 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.848 dated 31.12.2016 under Sections 323, 344, 363, 366-A, 376-D, 506, 120-B IPC, 1860, Section 6 of the POCSO Act, 2012 and Section 9 of the Child Marriage Act, 2006, registered at Police Station Bhiwani Sadar, District Bhiwani.

Learned counsel for the petitioner states that as per FIR and on the basis of statement made by the prosecutrix under Section 164 Cr.P.C., there is no allegation of commission of rape against the petitioner. In fact, the allegation of rape, if any, is against co-accused Rajesh and Ajay, who have been acquitted along with other co-accused Shakuntala and Anila by the trial Court vide judgment dated 03.05.2019. Petitioner is in custody since 24.03.2019. In view of the acquittal, the petitioner was also likely to be acquitted, but since he was declared PO, trial against him could not be completed. The petitioner has surrendered before the trial Court on

24.03.2019 and since then he is in custody.

Learned State Counsel does not dispute the custody period. However, she states that the allegation of rape is against Rajesh and Ajay, though they along with other-co-accused have been acquitted by the trial Court.

Heard learned counsel for the parties.

Considering the fact that there is no allegation against the petitioner for the commission of rape and the allegation, if any, is against Rajesh and Ajay and they have been acquitted by the trial Court vide judgment dated 03.05.2019, this Court finds that culpability of the petitioner is yet to be established for which he is ready to face the trial. Petitioner is in custody since 24.03.2019 and trial in the case is not likely to be concluded in the near future, therefore, this Court deems it appropriate to admit the petitioner on 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.

The petitioner shall appear before the trial Court on each and every date unless his appearance is exempted.

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

September 06, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No