

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

CRM-M-39932 of 2019.

Decided on:- December 06, 2019.

Gurwinder Singh @ Multani.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

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

Present:- Mr. V.S. Rana, Advocate for the petitioner.

Mr. Sukhbeer Singh, A.A.G., Punjab.

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.43 dated 16.05.2018 under Sections 376 and 506 IPC registered at Police Station Division No.4, District Patiala.

Learned counsel for the petitioner states that the allegation against the petitioner that he has committed rape upon the prosecutrix is false. The FIR was registered on 16.05.2018, whereas the petitioner was abroad from March, 2017 till 22.07.2019. Thus, the FIR was registered against him during the period when he remained out of India. Moreover, there is no medical evidence to support the case of the prosecution that the rape was committed upon the prosecutrix.

He further states that the petitioner is in custody since 22.07.2019 and no prosecution witness has been examined in the case so far. The case is fixed before the trial Court for framing of charge.

Learned State counsel does not dispute the custody of the petitioner and the fact that the charge is yet to be framed against the petitioner.

I have heard learned counsel for the parties.

The FIR was registered on 16.05.2018, whereas the petitioner was abroad from March, 2017 till 22.07.2019 and, therefore, the FIR was registered at his back. There is no medical evidence to support the case of the prosecution as no semen was detected on the person of the prosecutrix. In this manner, when the culpability of the petitioner is yet to be established during the trial, this Court finds that no useful purpose would be served by keeping the petitioner in custody during the trial.

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.

However, in case it is found that the facts narrated by learned counsel for the petitioner are incorrect, the prosecution shall be at liberty to seek cancellation of bail of the petitioner.

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.

December 06, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No