

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

CRM-M-42174 of 2019.

Decided on:- October 04, 2019.

Gopal.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. Anshumaan Dalal, Advocate
for the petitioner.

Ms. Priyanka Sadar, A.A.G., 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.91 dated 09.02.2019 under Sections 376(2)(n), 452, 201 and 506 IPC registered at Police Station Sampla, District Rohtak.

As per the aforesaid FIR, the petitioner, who lives in front of the matrimonial home of the complainant, was keeping bad intention on her. On 25.02.2017, when nobody was present in the house, he entered her house and forcibly committed rape upon her. He also clicked objectionable photographs in his mobile phone and thereafter on the threat of these photographs, he used to exploit her by committing wrong acts. She did not disclose these facts to anybody because of fear. However, when she was fed up with the wrong

activities of the petitioner and repeatedly refused the petitioner, he (petitioner), used to threat her that in case she will disclose this fact to anyone, he will kill her and her children. On 29.01.2019, the petitioner again committed rape upon her when she was alone in the house.

Learned counsel for the petitioner has argued that the first alleged incident had taken place on 25.02.2017 and thereafter, the relations between the petitioner and complainant continued. The petitioner is a young boy of 22 years of age, whereas the complainant is about 25 years of age and is mother of two children. The relations between them are of consensual in nature. He has referred the photographs and the Whatsapp chat taken place between the parties to substantiate the argument that the relationship was consensual. The petitioner is in custody since 12.02.2019.

He has further argued that as per the statement of the prosecutrix, the petitioner called her outside her house also and at one time, she had gone with the petitioner to Ambala, whereas another time, she had accompanied him to Delhi, where she stayed with the petitioner in a hotel.

Learned State counsel, on instructions from ASI Shri Bhagwan, states that the Challan in the case has been presented on 09.09.2019 and the case is now fixed for prosecution evidence on 06.11.2019.

Having heard learned counsel for the parties, this Court finds that as per the FIR, first episode had taken place on 25.02.2017 and the last incident had taken place on 29.01.2019. In this manner, the relationship between the petitioner and the complainant continued for about 2 years.

At this stage, the photographs and Whatsapp chat attached with the petition reflect that the relations between the parties were broadly consensual in nature. The petitioner is in custody since 12.02.2019 and the trial is not likely to conclude in near future. Thus, this Court finds that the petitioner deserves to be admitted on bail.

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, it is made clear that in case the petitioner influences the prosecution witnesses in any manner directly or indirectly, the prosecution shall be at liberty to seek cancellation of his bail.

The petitioner shall not contact the prosecutrix in any manner directly or indirectly. In case he is staying in the same locality, where the prosecutrix is residing, he shall leave his residence from that locality till the prosecutrix is examined before the trial Court.

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.

October 04, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No