

225.

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

**CRM-M-45157-2019**

Date of decision: 30.10.2019

HARNEK SINGH, KUKKU

... Petitioner

versus

STATE OF PUNJAB

.... Respondent

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

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Present: Mr. Kamal K. Sharma, Advocate,  
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

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**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, pending trial, in case FIR No.39 dated 17.03.2019 registered under Sections 376, 511, 506 of IPC at Police Station Goraya, District Jalandhar.

The aforesaid FIR was registered at the behest of the prosecutrix with the allegation that on 16.03.2019 at about 1.30 AM, when she was alone at her house and her son had gone for his job, the petitioner came to her house and knocked the door. When she opened the door, the petitioner entered the house and started demanding Rs.20,000/-. However, when the prosecutrix refused to give the amount, the petitioner-accused put *dattar* upon her neck and took her inside the room. Thereafter, putting his phone on video mode, he started making her video while removing her clothes. The petitioner opened her *salwar* and started moving his hands on

her breast. He talked with her in a very filthy language and tried to commit rape upon her. He threatened her that in case she will disclose the incident to anybody, the video recorded by him will be uploaded on the internet.

Counsel for the petitioner has argued that the prosecutrix is about 60 years of age, whereas the petitioner is 28 years of age. Both belongs to the same village and the prosecutrix is in some distant relation as *bua*. It is in the background of some money transaction which the petitioner was to recover from the prosecutrix, the present FIR has been registered. The petitioner is in custody since 17.03.2019. He states that the mobile being used by the petitioner has already been recovered and there is no such FSL report to contend that the petitioner has made any recording of the prosecutrix in any manner.

Learned State counsel, on instructions from ASI Om Parkash, does not dispute the custody. However, he submits that the prosecutrix has made her statement under Section 164 Cr.P.C. and there is no variation in her statement. No witness has been examined in the case. The mobile phone recovered from the petitioner has been sent for FSL report and the report is awaited.

I have heard learned counsel for the parties.

Petitioner is in custody since 17.03.2019. The allegation in the FIR that the petitioner entered the house of the prosecutrix and demanded Rs.20,000/- from her, cannot close sight of the fact that there seems to be some money transaction between the parties. The trial in the case will take sufficient time, as no witness has been examined in the case. Furthermore, the FSL report for the alleged video recording has not been received in the

case. In this manner, in the absence of FSL report, it cannot be accepted that the petitioner has made video recording in the case.

Taking into consideration the custody of the petitioner and the fact that culpability of the petitioner is yet to be established during the trial, 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 his furnishing 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 influence any prosecution witnesses in any manner directly or indirectly.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial court shall decide the case on the basis of available material.

**(HARI PAL VERMA)**  
**JUDGE**

30.10.2019  
sanjeev

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|----------------------------|--------|
| Whether speaking/reasoned? | Yes/No |
| Whether reportable?        | Yes/No |