

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

107+220

CRM-M-45763-2019(O&M)

Date of Decision:16.12.2019

Mukhtiar Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

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

Present: Mr. Munish Puri, Advocate,  
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Jagdish Singh Mehal, Advocate,  
for the complainant.

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HARI PAL VERMA, J.(Oral)

CRM-39275-2019

Prayer in this application filed under Section 482 Cr.P.C. is for placing on record statement recorded under Section 164 Cr.P.C. and examination-in-chief of the prosecutrix as Annexures P-5 & P-6.

Application is allowed, as prayed for and the copies of the statement and examination-in-chief of the prosecutrix are permitted to be taken on record.

CRM-M-45763-2019

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.58 dated 20.06.2019 under Section 24(1)(b) of the Immigration Act, 1983, Section 13 of the Punjab

Prevention of Human Smuggling Act, 2012 and Section 370 IPC (the offences punishable under Sections 370-A, 376, 354, 326, 323 IPC were added later on), registered at Police Station Dhariwal, District Gurdaspur.

Power of attorney filed on behalf of the complainant today in the Court, is taken on record.

Petitioner is a travel agent. As per FIR, the prosecutrix along with her husband has initially approached the petitioner, so as to go abroad and the petitioner has assured her to send her Kuwait for work. The petitioner arranged visa and air tickets for the prosecutrix and she was sent to the family of a Sheikh, where the Sheikh and his family said her to do all household works and to look after their three children. The allegation in the FIR is of commission of rape by Sheikh in Kuwait and for offence having been committed by the petitioner under the Immigration Act and Punjab Prevention of Human Smuggling Act.

Learned counsel for the petitioner has argued that the petitioner is in custody since 24.06.2019. As per the prosecutrix, the complainant has given a sum of Rs.30,000/- to the petitioner, so as to send her to Kuwait and the petitioner has arranged visa and air tickets booked for the prosecutrix for 15.07.2018. The prosecutrix stated that initially she stayed in Dubai for 15 days and thereafter on 27.07.2018, she was sent to Kuwait. When she arrived at Kuwait airport on 28.07.2018, an agent namely Raju came to receive her and she stayed in his house in the night hours from where she was brought to his office on 28.07.2018. A Sheikh Sherry along with his wife has taken the prosecutrix to their house, where she was asked to do household works and to take care of their three children. However, behaviour of Sheikh and his family towards the prosecutrix was not

appropriate. They used to torture the prosecutrix, did not provide her enough food and treated her like a donkey. They started giving beatings to her just after two days of her arrival. Sheikh and his wife both started misbehaving with the prosecutrix. After about two months of her arrival, Sheikh had established physical relations with the prosecutrix against her wishes and in this manner, committed rape twice on her.

Learned counsel for the petitioner has argued that the petitioner has just facilitated her visa and arranged air tickets, so as to go to Kuwait. The allegation of rape having been committed upon her, if any, is on Sheikh, where she stayed. Petitioner is 65 years old and is a heart patient. He is in custody since 24.06.2019 and trial in the case is not likely to be concluded in the near future.

Learned counsel for the complainant has argued that the petitioner has sold the prosecutrix to Sheikh, where she was subjected to rape by him(Sheikh). In this manner, the petitioner is involved in commission of the crime.

Learned State Counsel, on instructions from ASI Ajay Rajan, does not dispute the custody period and concur with the argument of the learned counsel for the complainant. He states that examination-in-chief of the complainant and the prosecutrix has already been conducted and now the case is fixed for 19.12.2019 for cross-examination of the complainant.

Heard learned counsel for the parties.

Petitioner is in custody since 24.06.2019. The offence of alleged rape was committed somewhere in July 2018, whereas the present FIR was registered on 20.06.2019. There is no allegation of rape having been committed by the petitioner. The prosecutrix has approached the

petitioner-accused, so as to go to Kuwait in the need of some work. At the most, allegation against the petitioner is under Immigration Act and Punjab Prevention of Human Smuggling Act. No prosecution witness has been fully examined except the complainant and the prosecutrix who have been examined in chief only. In this manner, trial is not likely to be concluded in the near future. Therefore, this Court finds that the petitioner deserves to be admitted 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.

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

**December 16, 2019**  
**seema**

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

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No