

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-46393 of 2019 (O&M)

Date of Decision: 18.12.2019

Sarwan Singh @ Sarabjit Singh

...Petitioner (s)

Versus

State of Punjab

...Respondent(s)

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

Present:- Mr. R.K. Trikha, Advocate
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

HARI PAL VERMA, J. (Oral)

CRM-39014-2019:

The application is allowed, as prayed. Documents Annexures P-4 and P-5 are taken on record subject to all just exceptions.

Criminal Misc. No.M-46393 of 2018:

Prayer in the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner in case FIR No.119 dated 04.08.2019 under Sections 376-D, 313, 506 IPC and Section 6 POCSO Act registered at Police Station Dasuya, District Hoshiarpur.

Learned counsel for the petitioner has argued that there is no allegation of rape against the petitioner. In fact, the allegation of commission of rape upon the prosecutrix is against co-accused Pindi, who

allegedly alighted the prosecutrix from her Activa scooter and dragged her to the rear side of a room near the canal, and raped her. The allegation against the petitioner is that he had made a video of the prosecutrix with other co-accused with his mobile phone, but no such video has been recovered during investigation. Even the prosecutrix in her statement under Section 164 CrPC (Annexure P-5) has not supported the case of the prosecution. Thus, the statements of the complainant is at variance. The petitioner is in custody since 05.08.2019.

Learned State counsel does not dispute the custody of the petitioner and the fact that there is variance in the statements of the prosecutrix.

I have heard learned counsel for the parties.

Admittedly, the petitioner is in custody since 05.08.2019. Considering the fact that there is improvement in the statement of the prosecutrix under Section 164 CrPC and the initial version, as referred in the FIR and the trial in the case is not likely to be concluded in near future, as no prosecution witness has yet been examined, I deem it appropriate to release the petitioner on regular bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of bail bonds/surety bonds to the satisfaction of trial Court.

December 18, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No