

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-50678 of 2019

Date of Decision: 17.12.2019

Ravi Kumar

...Petitioner (s)

Versus

State of Haryana

...Respondent(s)

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

Present:- Mr. Rishi Nijhawan, Advocate
for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

HARI PAL VERMA, J. (Oral)

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, who is 18 ½ years of age, in case FIR No.155 dated 02.06.2019 under Sections 363/366-A/376 and 506 IPC and Section 4 POCSO Act registered at Police Station Cheeka, District Kaithal.

Learned counsel for the petitioner has argued that the petitioner is in custody since 03.06.2019. The prosecutrix got her statement recorded under Section 164 CrPC on 02.06.2019, wherein she has stated that she had gone to the petitioner at her own will so that the mother of the

petitioner could talk to her parents regarding their marriage, as her parents already had some doubt that the prosecutrix used to talk with some one. However, when the prosecutrix along with the petitioner and his mother were coming back to her parents, her parents got the FIR in question registered against the petitioner. The prosecutrix had rather stated that she (prosecutrix) had no physical relations with the petitioner.

Learned counsel for the petitioner has also referred to FSL report dated 30.01.2019, in which the DNA report nowhere supports the case of the prosecutrix as regards commission of offence of sexual intercourse.

Learned State counsel, on instructions from ASI Sudesh Rani, does not dispute the custody of the petitioner. However, she submits that though the prosecutrix has not supported the allegations as regards the sexual assault by the petitioner upon her in her statement under Section 164 CrPC and there is no such allegation in the FIR, but when she was examined as PW-2, she has stated that she was subjected to sexual assault.

I have heard learned counsel for the parties.

Admittedly, the petitioner is in custody since 03.06.2019 and statement of the prosecutrix under Section 164 CrPC nowhere suggests that she was subjected to sexual assault. Similarly, DNA report dated 30.01.2019, as produced by the State counsel, depicts that no amplification could be obtained in the exhibits due to insufficient quantity of good quality DNA or degradation of DNA. Hence DNA profile of item no.4 (blood of accused) could be compared with any of these items, as described in the report. Therefore, considering the fact that culpability of the

petitioner is yet to be established during trial and the trial in the case is not likely to be concluded in near future, I deem it appropriate to release him 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 17, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No