

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

230

CRM-M-51646-2019

Date of Decision:12.12.2019

Bijender

.....Petitioner

Versus

State of Haryana

.....Respondent

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

Present: Mr. Saurabh Sharma, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

HARI PAL VERMA, J.(Oral)

Prayer in this 2nd petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.224 dated 27.05.2019 under Sections 376, 506 IPC, registered at Police Station Sadar Thanesar, District Kurukshetra.

The earlier petition i.e. CRM-M-38606-2019 was dismissed as withdrawn with liberty to the petitioner to file a fresh petition with better particulars.

Learned counsel for the petitioner states that it is in these circumstances, the present petition has been filed. He has argued that the petitioner has falsely been implicated in the case. Petitioner is already married and is father of 2½ years old daughter, whereas the prosecutrix is a widow, aged about 40 years, having three children including two daughters and one son. About 15 days prior to registration of the present FIR, she has

got a DDR registered against the petitioner with the allegation that the petitioner has enticed her daughter. However, that matter was compromised between the parties. The allegation of rape is totally false and relations between the parties, if any, were consensual in nature. The prosecutrix was offered for medical examination for the alleged incident of rape, but she has refused to undergo for such medical examination. Petitioner is in custody since 28.05.2019 and trial in the case is not likely to be concluded in the near future, therefore, he deserves to be admitted on bail.

Learned State Counsel, on instructions from ASI Sushil Kumar, does not dispute the custody period and the fact that the prosecutrix was offered for medical examination, but she has not come forward for such medical examination.

Heard learned counsel for the parties.

The allegation that the petitioner has established physical relations with the prosecutrix w.e.f. 30.01.2019 without her consent, can only be established during the course of trial. Moreover, in the case in hand, the prosecutrix though was offered for medical examination, but she has not come forward to undergo medical examination, which creates serious doubt about the allegations made in the case. Petitioner is in custody since 28.05.2019. Trial in the case is not likely to be concluded in the near future. Therefore, 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.

However, 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.

It is made clear that the petitioner shall not extend any threat and shall not try to influence any prosecution witnesses directly or indirectly in any manner.

December 12, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No