

230.

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

**CRM-M-51694-2019**

Date of decision: 10.12.2019

DALBIR SINGH

... Petitioner

versus

STATE OF HARYANA

.... Respondent

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

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Present: Mr. Aman Pal, Advocate,  
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

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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.97 dated 09.08.2019 registered under Sections 376(2)(f), 376(2)(n), 506 of IPC and 67(A) of Information and Technology Act, 2000 (lateron during the course of investigation, the offence under Section 67(A) of IT Act, was deleted), at Women Police Station, Jind, District Jind.

The aforesaid FIR was registered at the behest of the prosecutrix, who is a married lady and having some dispute with her husband Pardeep. As per the FIR, when her matrimonial dispute against her husband was transferred to Women Cell, Gurugram by the police of Delhi, during this period, she met with the petitioner, who was posted as SHO, Police Station Sadar, Gurugram. The petitioner enquired from her as to where she is residing and the prosecutrix informed him that she is from

Mohangarh (Jind) and the petitioner told her that he is from Pindara (Jind). In order to seek his help, the prosecutrix gave her mobile number to the petitioner. Thereafter, they started talking with each other on phones. She was facilitated a job in a restaurant, namely, TFR Villa, where she is working since 28.05.2019. On 10.07.2019 at about 10.00 AM, the petitioner met her at the Bus Stand, Jind in a swift car and told the prosecutrix that he is going to Gurugram and gave a lift to her. While crossing the Pindara bypass, he had put 5 banners on the windows of the swift car and after crossing the Pindara bridge towards Delhi, he stopped the car and committed rape upon her against her wish and thereafter, he took her to Gurugram. On 11.07.2019, the petitioner telephoned the prosecutrix (at that time, she was weeping) and asked her to come to his quarter. She went there to talk with him. The petitioner offered her cold drink by mixing something and after consuming the cold drink, she felt giddiness. Taking advantage of the situation, the petitioner again committed rape upon her without her consent. He told her that he has made her video and sent that video on her phone also. By showing that video, he continued to commit rape upon her. He used to force her to consume liquor and continued to commit rape upon her.

Counsel for the petitioner has argued that the track record of the prosecutrix is not above board. She is in the habit of making false complaints. He has made reference to Annexures P-3, P-4, P-5 and P-8 wherein there are more or less similar allegations against the accused and she has invariably been declared hostile leading to acquittal of the accused. The petitioner is in custody since 10.08.2019. He has further argued that during investigation, not only the offence under the IT Act has been deleted,

even the story propounded by the prosecutrix is liable to be disbelieved for the reason that the allegation against the petitioner is that he committed sexual assault on the prosecutrix between 10.07.2019 and 11.07.2019. However, during investigation, the tower location of the mobile of the petitioner was found at Gurugram, whereas the tower location of the mobile of the prosecutrix was at Rewari where she was attending some marriage. However, the location for the alleged commission of rape was at Jind.

Counsel for the petitioner has further argued that it is the prosecutrix, who has prepared the video from her mobile phone which was recovered during investigation from the complainant herself.

Learned State counsel does not dispute the custody and the fact that the offence under the IT Act has been deleted during the course of investigation. However, she submits that challan in the case has been presented and charges are yet to be framed, but considering the allegations, the petitioner is not entitled for the concession of bail.

I have heard learned counsel for the parties.

Petitioner is in custody since 10.08.2019. The detail of various cases so attached with the paper book creates serious doubt about the allegations made in the FIR. During investigation, the tower location of the petitioner and the prosecutrix has been found at different places, whereas the alleged offence of rape has taken place at Pindara (Jind). The tower location of the parties suggests that the complainant was found at Rewari whereas the petitioner was in Gurugram, which creates doubt about the culpability of the petitioner in the case.

Since trial in the case is not likely to be concluded in the near future and considering the record of cases registered at the behest of the prosecutrix and the tower locations of the parties, 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**

10.12.2019  
sanjeev

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