

229.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52013-2019

Date of decision: 11.12.2019

MANGAT RAM @ SONU

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Dinesh Maurya, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

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.255 dated 17.09.2019 registered under Sections 376(1), 34 of IPC at Police Station City Ratia, District Fatehabad.

The aforesaid FIR was registered at the behest of the prosecutrix. As per the FIR, one day prior to *Raksha Bandhan*, Balbir Singh @ Giani invited her to his house and forcibly did wrong act with her. The petitioner assisted him (Balbir Singh @ Giani) in the commission of offence. He was present there at that time.

Counsel for the petitioner has argued that the petitioner is about 27 years of age, whereas the victim in the case is about 42 years of age. There is substantial age difference between them. Apart from the fact that the petitioner is in custody since 17.09.2019, there is no allegation of

commission of rape upon him. He states that no date and time of the incident has been given. The complainant is silent as regard the role attributed to the petitioner.

Learned State counsel does not dispute the custody. However, she submits that the learned Additional Sessions Judge, while declining bail to the petitioner, has directed the Superintendent of Police, Fatehabad to look into the matter and also to sensitize the SHOs and the investigating officers to apply correct provisions of IPC and other laws especially in such like cases of indecent penetrative assault upon a woman/girl. Thus, the observation is likely to invoke the offence under Section 376D of IPC in the case. Moreover, the charge has not been framed in the case and in this manner, the prosecutrix has not been examined.

I have heard learned counsel for the parties.

A perusal of the FIR shows that the allegation of commission of rape, if any, is against Balbir Singh @ Giani. No role has been attributed to the petitioner in the FIR except that the petitioner was present at the scene of occurrence on the date on which the offence was committed. The culpability of the petitioner is yet to be established during the trial. Thus, 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

11.12.2019
sanjeev

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