

231.

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

CRM-M-1058-2020

Date of decision: 16.01.2020

SAWAN

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Sumit S. Bairagi, Advocate, for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.81 dated 20.06.2019 registered under Sections 376(2)(n), 120-B, 328, 342, 363, 366, 506 of IPC and Section 6 of POCSO at Police Station Women, District Karnal.

Learned counsel for the petitioner states that the petitioner is in custody since 22.06.2019. The alleged incident has taken place on 15.06.2019 whereas the FIR was registered on 20.06.2019. He states that the prosecutrix in her statement under Section 164 Cr.P.C. has not suggested the name of the petitioner even remotely. The allegation of commission of rape, if any, is against the co-accused Vijay. The only allegation against the petitioner is that he has handed over mobile phone to the prosecutrix so as to talk with Vijay.

Learned State counsel, on instructions from ASI Sunita, does not dispute the custody. However, she submits that it is in connivance with the petitioner, Vijay has continuously committed rape upon the prosecutrix, who is a minor girl.

I have heard learned counsel for the parties.

Taking into consideration the allegations made in the FIR, it is apparent that there is no allegation of commission of rape against the petitioner. Even in the statement of the prosecutrix recorded under Section 164 Cr.P.C., there is no allegation against the petitioner for commission of rape, whereas she has specifically made allegation against the co-accused Vijay. Even otherwise, the main accused Bablu has been found innocent.

Since there is no allegation of rape against the petitioner and even the prosecutrix has not made any allegation against the petitioner in her statement under Section 164 Cr.P.C., 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

16.01.2020
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Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No