

CRM-M-1398-2020

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

CRM-M-1398-2020

Date of Decision: 22nd May, 2020

Amit

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Jitender Dhanda, Advocate,
for the petitioner.

Mr. Apoorv Garg, DAG, Haryana.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court for grant of regular bail by filing this petition under Section 439 of the Code of Criminal Procedure, 1973, in FIR No.57, dated 14.11.2019, registered at Women Police Station, District Hisar, under Sections 376 (D) (A), 365, 328, 354 A (1) (i), 506 and 120-B of the Indian Penal Code (hereinafter referred to as 'IPC') along with Section 3 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 6 & 12 of the Protection of Children from Sexual Offences Act, 2012.

Counsel for the petitioner contends that although initially, there were allegations of rape against the petitioner but in the statement of the prosecutrix which has been recorded at a subsequent date, there was no such allegations of rape against him. Counsel contends that even the charge

which has been framed against the petitioner is not under Section 376 of IPC and it is only under Section 354 (1) (i) of IPC apart from other sections. He contends that the petitioner is in custody since 15.11.2019 and as per the statement of the prosecutrix, he was standing far away from where the offence was committed by the main accused Shubham. He asserts that the trial is not likely to conclude at an early date as the charge has only been framed in the case and no prosecution witness has been examined till date and therefore, continuance of the petitioner in custody would not serve any purpose especially in the present situation where endeavour is to reduce the concentration of the inmates in jail. Prayer has, thus, been made for grant of regular bail to the petitioner.

Learned counsel for the State, on the other hand, asserts that although in the subsequent statement of the prosecutrix, allegations under Section 376 of IPC against the petitioner are not made out, however, he was actively involved in the commission of offence and therefore, it cannot be said that there was no role of the petitioner. He asserts that the petitioner be not granted the benefit of regular bail.

Having considered the submissions of the counsel for the parties and keeping in view the allegations made against the petitioner as also the fact that he is in custody since 15.11.2019 and the charge which has been framed against him does not relate to Section 376 of IPC with the fact that the trial is not likely to conclude in near future, this criminal miscellaneous petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of

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the trial Court/Chief Judicial Magistrate/Duty Magistrate, Hisar.

Any observation made herein-above shall have no bearing on the merits of the case during the trial in any manner.

22nd May, 2020
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No