

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-1866 of 2020

Date of Decision: 23.01.2020

Krishan Kumar @ Verma

Petitioner (s)

Versus

State of Punjab

...Respondent(s)

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

Present:- Mr. Saurabh Kapoor, Advocate
for the petitioner.

Mr. Hittan Nehra, Addl.A.G., Punjab.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner in case FIR No.146 dated 08.05.2018 under Sections 376-D, 354 IPC registered at Police Station City Khanna, District Ludhiana.

The aforesaid FIR was registered at the behest of the prosecutrix with the allegations that as the prosecutrix was in bad company and was addicted to drugs (smack), she left her government job. On 05.05.2018 at about 11.00 AM Paramjit Singh @ Pamma son of Sinder Pal met her outside Hamira factory and asked her to accompany him. She accompanied him in his truck to Village Bhatian Khanna, where she was taken to the quarter of Kishan Parwasi, where the accused Paramjit Singh

@ Pamma gave her some intoxicating powder and did sexual intercourse with her without her consent. His other friends namely Rajveer Singh and Verma (the petitioner herein) also came there and all the three of them committed sex with her. They did not allow the prosecutrix to go out of the room. Kishan Parwasi (labourer) also did obscene acts with her. She was subjected to sexual intercourse from 05.05.2018 to 07.05.2018 by the accused and on 07.05.2018, she was left at Goraya in unconscious condition through the same truck, where she was got admitted in Civil Hospital, Goraya and then, she was referred to Civil Hospital, Phillaur.

Counsel for the petitioner has argued that earlier also, the petitioner had approached this Court by way of CRM-M-52865-2018 so as to grant regular bail and this Court, vide order dated 17.01.2019, though dismissed the petition as withdrawn, but directed the District Magistrate, Jalandhar to get the prosecutrix medically examined as to whether she is addicted to intoxicants and in case, it is found so, she be provided medicines and treatment for de-addiction and further, to submit his report to this Court. At the same time, State was directed to produce the prosecutrix for evidence on the date fixed. State was also directed to ensure production of the prosecutrix before the trial Court on the date fixed. Counsel for the petitioner has further argued that despite there being order dated 17.01.2019 in CRM-M-52865-2018, the prosecutrix has not been examined in the case, as she is not traceable. The petitioner is in custody since 09.05.2018.

Learned State counsel does not dispute the custody of the petitioner and the fact that the prosecutrix is not traceable. However, he

submits that as against total 16 witnesses cited by the prosecution, 15 witnesses have already been examined in the case and only the prosecutrix is left to be examined.

I have heard learned counsel for the parties.

Admittedly, despite there being order dated 17.01.2019 passed by this Court in CRM-M-52865-2018, whereby the prosecutrix was directed to be produced before the trial Court, she has not been examined. Even her whereabouts are not known. The examination of the prosecutrix to prove the case is relevant, but despite opportunities, she has not been examined so far. Considering the fact that the petitioner is in custody since 09.05.2018 and whereabouts of the prosecutrix are unknown, this Court finds that the petitioner deserves to be admitted on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of his bail bonds/surety bonds to the satisfaction of trial Court.

However, it is made clear that the observation made hereinabove shall not be construed as an expression on the merits of the case.

January 23, 2020
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No