

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-2010 of 2020

Date of Decision: 23.01.2020

Jaipal

Petitioner (s)

Versus

State of Punjab

...Respondent(s)

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

Present:- Mr. Pritam Singh Saini, Advocate
for the petitioner.

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

Ms. Sushma Chopra, Advocate
for the complainant.

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.0367 dated 25.12.2018 under Sections 376, 511 IPC and Section 8 POSCO Act registered at Police Station Dera Bassi, District SAS Nagar, Mohali.

Counsel for the petitioner has argued that after registration of the aforesaid FIR, the prosecutrix is not coming forward to depose in the case. Earlier also, the petitioner had filed CRM-M-31132-2019 for grant of regular bail to him and the said petition was dismissed as withdrawn.

Thereafter, the case before the trial Court was adjourned from time to time i.e. 26.11.2019, 02.12.2019, 09.12.2019, 18.12.2019, 03.01.2020 and 20.01.2020. The prosecutrix was even contacted through her e-mail, but despite that, she has not come forward to depose in the case. He has further argued that there is no medical evidence so as support the case of the prosecution. Moreover, the allegation in the FIR is that an attempt to commit the offence of rape. The petitioner is in custody since 26.12.2018.

Learned State counsel does not dispute the custody of the petitioner. He has submitted that as against the 11 witnesses cited by the prosecution, 5 witnesses have been examined. He has further submitted that after registration of the FIR, the prosecutrix has not come forward to depose in the case, as she is living in USA.

At this stage Ms. Sushma Chopra, Advocate has put in appearance on behalf of the complainant and filed her power of attorney in Court, which is taken on record. She has submitted that the prosecutrix is in USA and would be available to get herself examined in June, 2020, as she is pursuing her studies there.

I have heard learned counsel for the parties.

No doubt, the earlier petition filed by the petitioner has been dismissed as withdrawn, but thereafter, the trial Court has adjourned the case on different dates, but the prosecutrix has not come forward to depose. Considering the fact that the petitioner is in custody since 26.12.2018 and there is no medical evidence so as to support the allegation of attempt to rape, coupled with the fact that despite granting number of opportunities,

the prosecutrix has not come forward to depose in the case, 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