

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

221

CRM-M-3476-2020

Date of Decision: 17.02.2020

Rahul**.....Petitioner****Versus****State of Haryana****.....Respondent****CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.****Present: Mr. Rajesh Goyal, 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 in FIR No.219 dated 16.10.2019 under Sections 323, 376(2)(n), 376D, 328, 506 IPC (the offence under section 313 IPC was added later on), registered at Women Police Station, Panipat.

The aforesaid FIR was registered at the behest of the prosecutrix, who hailed from Gujarat, but at the relevant time when the alleged incident took place, she was residing in Panipat. As per FIR, about two years ago, she has come to Panipat for job, where the applicant-accused came into contact, who stated that he loves her, but she refused. Despite that, he started proposing her time and again and on his statement, she believed him and he started coming to her room. He stated to her that he wants to marry her. He entangled her in his talks and started living in her room. In the meantime, they developed physical relations though she did not want to make physical relations. However, he stated that they are going to marry, then why she should fear. She was trapped in his talks. He started

making physical relations regularly. On one day, she came to the house and she was stunned to see that Rahul was making physical relations with his centaur(kinnar) friend Vineet. He started weeping and stated that he will not do it in future. However, he again started making physical relations. One day, Rahul took her to Samalkha along with his friend, where his friend Anil Gujjar was present. Firstly, they took the food but before that Rahul and Anil gave her cold drink and thereafter she got unconscious. Firstly, Anil Gujjar and thereafter, his friends also came and they all raped her. When she regained consciousness, centaur(kinnar) Vineet came to her and on the asking of Rahul, he brought her to the Civil Hospital, Panipat. Thereafter, Rahul came there and asked her to make complaint to the police but on the pressure of police, he took Rs.2.50 lacs for compromise but he did not give anything to her. Thereafter, Rahul took her in 8 Marla, Panipat in her room and started getting her raped by calling her different friends and used to beat her. In the meantime, she also got pregnant. After two months, Rahul and his friends kicked her stomach, as result of which she was aborted. When she wanted to talk to his parents, they also started misbehaving with her and Rahul used to call his friends daily and get her raped and also raped her.

Learned counsel for the petitioner states that apart from the fact petitioner is in custody since 20.11.2019, matter has otherwise been compromised between the parties. The prosecutrix is staying in her matrimonial home and in the light of the compromise, petitioner has filed the petition i.e. CRM-M-54543-2019 (Rahul Versus State of Haryana and others), so as to quash the FIR on the basis of compromise, which is coming up for hearing on 06.03.2020. The prosecutrix was not medically examined

in the case and in the absence of such medical examination, it cannot be said that she was subjected to rape or sexual assault in any manner.

Learned State Counsel does not dispute the custody period. However, she submits that the prosecutrix was offered for medical examination, but she refused to undergo such medical examination. However, as on date the prosecutrix is staying in her matrimonial home.

Heard learned counsel for the parties.

Petitioner is in custody since 20.11.2019. The prosecutrix in the case was offered for medical examination, but she has not come forward to undergo such medical examination. Petitioner has filed the petition i.e. CRM-M-54543-2019, so as to quash the FIR on the basis of compromise. The prosecutrix is stated to be residing in the matrimonial home as she has solemnized marriage with the petitioner. Though, the allegations in the FIR are serious but considering the fact that the prosecutrix has solemnized marriage with the petitioner and has not opted for medical examination, 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.

However, it is made clear that the observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall proceed with the trial independently without being influenced by the order of bail passed by this Court.

February 17, 2020
seema

(HARI PAL VERMA)
JUDGE

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