

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

CRM-M-4100 of 2020.

Decided on:- February 04, 2020.

Abhishek.

.....Petitioner.

Versus

State of Haryana and another

.....Respondents.

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

Present:- Mr. Shashikant Gupta, Advocate for
Mr. Parshant Sethi, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

HARI PAL VERMA, J. (Oral)

The petitioner has filed present petition under Section 439 Cr.P.C. seeking regular bail in FIR No.70 dated 10.06.2019 under Sections 498-A, 323 and 376 read with Section 34 IPC registered at Police Station Women, Ballabgarh, District Faridabad.

As per the allegations made in the FIR, the marriage of the prosecutrix was solemnised with Vipin Rai on 18.02.2018, but after the marriage, the in-laws family used to harass her for dowry. The petitioner, who is friend of sister-in-law of the prosecutrix used to visit the matrimonial home and in the month of January, 2019, he committed sexual assault upon her. On 13.01.2019, in the absence of husband of the prosecutrix, the petitioner came to her house and committed rape upon her. Similarly, on 07.03.2019, 09.03.2019 and 14.03.2019, the petitioner committed rape upon her. However, when the prosecutrix resisted, her in-laws gave merciless beatings to her and shunted her out from the matrimonial home.

Learned counsel for the petitioner has argued that the prosecutrix has matrimonial dispute with her husband Vipin Rai and his parents. The alleged incident that the petitioner committed rape upon her relates to 13.01.2019 and thereafter on 07.03.2019, 09.03.2019 and 14.03.2019, but the present FIR was registered on 10.06.2019. There is no medical evidence so as to prove complicity of the petitioner with the alleged crime. The prosecutrix is otherwise in the habit of lodging such FIRs as it is the second marriage of the prosecutrix with Vipin Rai and even against her earlier husband, she has lodged as many as 3 FIRs.

Learned State counsel does not dispute the custody and the relationship. However, she submits that considering the nature of allegations, the petitioner is not entitled to be released on bail as the allegations against him are that he had committed rape upon the prosecutrix, a married lady. She further states that the DNA report has not been produced in the case and charges have been framed in the case and total 20 witnesses have been cited by the prosecution.

I have heard learned counsel for the parties.

The petitioner is in custody since 05.12.2019. No DNA report in the case has been produced so as to establish that the petitioner has committed sexual assault upon the prosecutrix. Even otherwise, the first incident had allegedly taken place on 13.01.2019 and thereafter on 07.03.2019, 09.03.2019 and 14.03.2019, but the FIR was registered on 10.06.2019. The prosecutrix is otherwise a married lady. In this manner, the culpability of the petitioner is yet to be established during the trial, which is not likely to be concluded in

near future. Therefore, this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing adequate bail and surety bonds to the satisfaction of learned trial Court.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case without being influenced with these observations in any manner.

February 04, 2020
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No