

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

**Criminal Misc. No.M-5097 of 2020 (O&M)  
Date of Decision: 17.09.2020**

Hardeep

...Petitioner (s)

Versus

State of Haryana

...Respondent(s)

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

Present:- Mr. Aman Pal, Advocate  
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.  
\*\*\*\*\*

**HARI PAL VERMA, J. (Oral)**

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

**CRM-21170-2020:**

Prayer in this application filed under Section 482 Cr.P.C. is for placing on record the statement of the prosecutrix (PW-3) as Annexure P-8.

The application is allowed, as prayed. The statement of the prosecutrix (PW-3) is taken on record as Annexure P-8

**Criminal Misc. No.M-5097 of 2020**

This is second petition filed on behalf of the petitioner under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in FIR No.278 dated 26.12.2018 under Sections 354, 376(2)(f), 376(2)(n) and 506 IPC registered at Police Station Women, Jind, District Jind. The earlier petition i.e. CRM-M-27706-2019 was dismissed as withdrawn vide order dated 09.07.2019 passed by this Court.

Learned counsel for the petitioner has argued that the prosecutrix has been examined in the case. The prosecutrix is much older to the petitioner and was a student of B.Sc. Final Year, whereas the petitioner who was 20 years of age, was a student of B.A. Ist Year. The allegation of commission of is of dated 22.11.2018 or 23.11.2018, whereas the FIR in question was registered on 26.12.2018 i.e. after a period of more than one month. As per the statement of the prosecutrix made before the police on 24.12.2018, she had gone to Haridwar on 22.12.2018 without telling her family, as she was feeling bored as she had heard the name of Haridwar, which is a religious place. She had further stated that during her stay at Haridwar, no wrong act was committed on her by the petitioner. However, on 27.12.2018, when her statement under Section 164 CrPC was recorded, the prosecutrix has stated that the petitioner took her to a hotel on 22.11.2018 or 23.11.2018 in order to take lunch, where the petitioner committed rape upon her on the pretext of solemnizing marriage. Thus, there is variation in the statement of the prosecutrix recorded before the police on 24.12.2018 and the statement recorded under Section 164 CrPC. He has submitted that the petitioner is in custody since 25.03.2019 and the prosecutrix has been examined in the case as PW-3 and thus, in case the petitioner is released on bail, the prosecutrix is not likely to be influenced in any manner.

Learned State counsel, on instructions from ASI Neelam Kumari, does not dispute the custody of the petitioner. However, she submits that there are serious allegation of commission of rape against the petitioner on the pretext of solemnizing marriage with the prosecutrix.

I have heard learned counsel for the parties.

Admittedly, the prosecutrix has been examined in the case. The offence of rape was allegedly committed somewhere on 22.11.2018 or 23.11.2018 whereas the FIR in question was registered on 26.12.2018 i.e. after more than a month. In her statement recorded to the police on 24.12.2018, the prosecutrix has not levelled any allegation of commission of rape against the petitioner. Rather, she has stated that she had gone to Haridwar, as she was feeling bored at home, whereas in her statement recorded under Section 164 CrPC, she has completely changed her version. Thus the culpability of the petitioner for the offence committed, is yet to be established during trial.

Be that as it may, considering the fact that petitioner is in custody since 25.03.2019 and due to Covid-19, the trial in the case will take sufficient long time, this Court deems it appropriate to release the petitioner on regular 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/Duty Magistrate.

However, it is made clear that the observations made hereinabove shall not construe to be expression of any opinion on the merits of the case.

September 17, 2020  
AK

( HARI PAL VERMA )  
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No