

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-5958 of 2020

Date of Decision: 25.11.2020

Parveen

...Petitioner (s)

Versus

Union Territory, Chandigarh

...Respondent(s)

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

Present:- Mr. Pratham Sethi, Advocate
for the petitioner.

Mr. Manish Jain, APP, UT, Chandigarh.

Mr. Nitin Meel, Advocate
for the complainant.

HARI PAL VERMA, J. (Oral)

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

This is third petition filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in FIR No.70 dated 02.06.2019 under Sections 376-D/370-A IPC and Section 6 of the POCSO Act (Section 370-A IPC deleted in report under Section 173(2) CrPC and charges have been framed under Sections 120-B/376(2)(f)/376-D/376 IPC and Sections 4/6/17 POCSO Act) registered at Police Station Sarangpur, Chandigarh. The earlier petitions filed by the petitioner have

been dismissed as withdrawn vide orders dated 20.01.2020 and 11.09.2020 of this Court.

Learned counsel for the petitioner has argued that the petitioner is real brother-in-law (*Jija*) of the prosecutrix and is in custody for the last about 1 year and 5 months. The other co-accused namely Vikash and Navneet @ Vicky have been granted regular bail by this Court vide orders dated 21.11.2019 passed in CRM-M-42607-2019 *Vikash Vs. UT, Chandigarh* and CRM-M- 45837-2019 *Navneet @ Vicky Vs. UT, Chandigarh*. The prosecutrix was offered to get herself medically examined, but she has refused for such medical examination and therefore, an inference can be drawn that the alleged offence has not been committed upon her. He has further argued that the prosecutrix has submitted an affidavit dated 14.09.2020 stating therein that the petitioner is not the same person i.e. Praveen who committed rape upon her.

Learned counsel for the complainant does not dispute the veracity of facts of the affidavit submitted by the prosecutrix and submits that he has no objection in case the petitioner is admitted on bail.

Learned APP does not dispute the custody of the petitioner. However, he submits that the allegation against the petitioner are serious in nature, especially when the prosecutrix is minor. However, he is fair enough to admit that the prosecutrix has not opted to get her medically examined.

I have heard learned counsel for the parties.

The petitioner is in custody for the last about 1 year and 5 months and the other co-accused are already on bail. The prosecutrix has

given her affidavit dated 14.09.2020 and has disputed the identity of the petitioner, who is in her close relations. Considering the fact that the prosecutrix has not come forward to get herself medically examined and trial in the case is not likely to be concluded in near future due to Covid-19 pandemic and culpability of the petitioner is yet to be decided during trial, 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 as expression of any opinion on the merits of the case. The petitioner shall not influence the witnesses in any manner.

November 25, 2020
AK

(**HARI PAL VERMA**)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No