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

CRM-M No. 11594 of 2020
Date of Decision: 19.11.2020

Sandeep

-Petitioner

Vs

State of Haryana and another

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Parminder Singh, Advocate,
for the petitioner.

Mr. Manish Bansal, D.A.G., Haryana.

Mr. Sukhdeep Singh, Advocate,
for the complainant.

RAJ MOHAN SINGH, J. (ORAL)

The case has been taken up for hearing through video-conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C. in case bearing FIR No.17 dated 14.01.2020 under Sections 376-D, 328, 342 IPC registered at Police Station Kundli, Sonapat, District Sonapat.

FIR was registered on the basis of statement of the prosecutrix wherein she has alleged allegations against Tinku. Tinku took her to the place where his 04 friends came. The prosecutrix was given some intoxicant in the cold drink and

thereafter, all the 05 boys committed bad act with her. Tinku was taking the names of Vinod and Khanna. 03 boys went away and 02 boys were left at the spot. The prosecutrix informed the police on the pretext of going to the washroom.

Later on, 02 boys namely Vinod and Mukesh were arrested on 15.01.2020.

Statement of the prosecutrix was recorded on 14.01.2020 in which she named Tinku and one Sandeep Patil. She further stated that she would identify the accused if brought before her. Thereafter, the prosecutrix submitted her affidavit before the police on 19.02.2020 exonerating Sandeep Patil from the act. She further stated that the accused Sandeep Patil was shown to her by the police on 15.01.2020 in the police station and she stated that Sandeep Patil was not the boy who had committed bad act with her.

Vide order dated 07.08.2020, State was directed to file an affidavit in the context of identification of the petitioner by the prosecutrix during course of investigation.

Status report submitted by way of affidavit of Virender Singh, HPS, Deputy Superintendent of Police, Head Quarter, Sonipat would show that in the statement under Section 164 Cr.P.C., the prosecutrix has disclosed the name of Tinku and one Sandeep Patil.

However, statement of the prosecutrix recorded on 14.08.2020 was also attached as Annexure R-1 with the status report in which she has exonerated Sandeep son of Narayan Singh. Thereafter, vide order dated 09.11.2020, learned State counsel sought time to file statement of prosecutrix under Section 164 Cr.P.C.

Learned counsel for the complainant has supported the affidavit and the statement of the complainant.

In compliance of the aforesaid order, respondent-State has placed on record statement of the prosecutrix under Section 164 Cr.P.C. as well as verification in the context of identity of the petitioner whether he is Sandeep or Sandeep Patil.

Verification of the police has revealed that Sandeep and Sandeep Patil are the same person, however, the villagers have shown their inability to get their statements recorded qua this aspect.

In view of aforesaid factual position, complicity of the petitioner would remain debatable.

At this stage, without making any observation on the merits of the case, custody of the petitioner since 15.01.2020, affidavit of the prosecutrix dated 19.02.2020, her statement dated 14.08.2020 and the situation arising out of pandemic

COVID-19, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, the petition is allowed. Petitioner is directed to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an opinion on the merits of the case.

19.11.2020
Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

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| 1. | Whether speaking/reasoned | : | Yes/No |
| 2. | Whether reportable | : | Yes/No |