

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

CRM No.M-16123 of 2020 (O&M)

Date of Decision: October 01, 2020

Vikesh and another

...Petitioners

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Pradeep Chhoker, Advocate,
for the petitioners.

Ms.Harpreet Kaur, AAG, Haryana
for the respondent-State.

ARCHANA PURI, J.

The matter has been taken up through video conferencing in the
light of the pandemic COVID-19 situation

CRM No.21913 of 2020

The present application has been filed for placing on record
statement of prosecutrix got recorded by the trial Court. In view of the
submissions made in the application, the same is allowed and the requisite
statement of the prosecutrix, who has been examined as PW-1 before the
trial Court is taken on record.

CRM No.M-16123 of 2020

Petitioners have filed this petition under Section 439 Cr.P.C.

for grant of regular bail in case FIR No.600 dated 27.08.2019 under

Sections 452, 376-D IPC (Section 365 IPC added later on), registered at Police Station Gharaunda, District Karnal.

Heard on the petition.

The aforesaid case was registered at the instance of the prosecutrix (name withheld). As per version of the prosecution, one day prior to the registration of the case, prosecutrix was sleeping in her house. Then three boys pushed her mouth and outraged her modesty and did wrong act with her. The prosecutrix is widow lady, living alone in the house.

In the light of assertions in the FIR, it is now submitted by learned counsel for the petitioners Vikesh and Nitu that they have been falsely implicated in the present case. In fact, challan has been presented and statement of the prosecutrix has already been recorded before the trial Court as PW-1. It is further stated that place of occurrence has altogether been changed by the prosecutrix while deposing before the trial Court, as therein, she has stated that while she was coming home from Kohand Bus Stand, there were 4-5 persons, who attacked her and tried to touch her inappropriately. Also, it is submitted that prosecutrix did not support the prosecution version, on account of which, after seeking permission, the prosecutrix was declared hostile and was cross-examined by the Public Prosecutor.

However, learned State counsel has assailed the submissions so made by learned counsel for the petitioners. So far as, presentation of challan, framing of the charge and recording of statement of the prosecutrix as PW-1 is concerned, the same is not disputed by learned State counsel.

Perusal of the FIR, so brought on record as well statement of

the prosecutrix, which has been taken on record today, it is evident that

there is variation in place of occurrence, so stated in the FIR as well as by the prosecutrix while deposing in the trial Court. Even, in the FIR, both the petitioners have not been named. The petitioners are in custody since 06.11.2019.

Considering the aforesaid fact situation, without prejudice to the rights of the parties to be adjudicated on merits, the present petition, as such, is allowed and the petitioners are ordered to be released on bail subject to thier furnishing personal/surety bonds to the satisfaction of the learned Chief Judicial Magistrate/Duty Magistrate.

(ARCHANA PURI)
JUDGE

October 01, 2020
Vgulati

Whether speaking/reasoned
Whether reportable

Yes
Yes/No