

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

CRM-M-25278 of 2020.

Decided on:- October 30, 2020.

Pawan @ Pauna.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. Lakshay Bajaj, Advocate
for the petitioner.

Mr. Amrik Singh Narwal, D.A.G., Haryana.

HARI PAL VERMA, J. (Oral)

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

The petitioner has filed the present petition under Section 439 Cr.P.C. seeking regular bail in FIR No.93 dated 20.04.2018 under Section 365 (Sections 328, 342 and 341 IPC and Section 6 of the POCSO Act, 2012 added later on) registered at Police Station Israna, District Panipat.

Learned counsel for the petitioner has submitted that co-accused Rajbala, Arjun and Rinku @ Guru have already been admitted on bail by this Court. The petitioner is in custody since 22.04.2018 and as against total 20 witnesses cited by the prosecution, only 3 witnesses have been examined before the trial Court so far. In her statement under Section 164 Cr.PC, the prosecutrix had stated that on 19.04.2018, when she was sleeping in her house

in the night, someone suddenly strangled her mouth and when she opened her eyes, she saw that it was Arjun and thereafter, she felt unconscious. However, while deposing before the trial Court, she has stated that on 19.04.2018 she was sleeping in her house along with her younger brother and her father was sleeping on another cot. In the night, accused Pawan put his hand on her mouth and she lost her consciousness.

Learned State counsel does not dispute the custody of the petitioner and the aforesaid variation in the statement of the prosecutrix recorded under Section 164 Cr.PC and her deposition before the trial Court.

I have heard learned counsel for the parties.

Admittedly, the other co-accused, namely, Rajbala, Arjun and Rinku @ Guru have already been admitted on bail. The petitioner is in custody since 22.04.2018. As against 20 witnesses cited by the prosecution, only 3 witnesses have been examined so far. Apart from this, there is a variation in the statement of the prosecutrix recorded under Section 164 Cr.PC and her deposition before the trial Court which can only be appreciated during the trial. Therefore, this Court finds that the petitioner deserves to be admitted 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/Duty Magistrate.

However, it is made clear that in case the petitioner influences the prosecution witnesses in any manner directly or indirectly, the prosecution shall be at liberty to seek cancellation of his bail.

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.

October 30, 2020
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No