

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-26118 of 2019
Date of decision :13.01.2020

Som Nath

.....Petitioner

Vs.

State of Punjab and Anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Ms.G.K.Mann, Advocate, and
Mr.A.N.Walia, Advocate, for the petitioner.

Ms.Ruchika Sabharwal, AAG, Punjab.

HARI PAL VERMA, J. (ORAL)

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner, pending trial, in case FIR No.195 dated 06.10.2018 registered under Sections 376 of IPC at Police Station Lopoke, District Amritsar.

The aforesaid FIR was registered at the behest of prosecutrix aged about 80 years. As per FIR on 05.10.2018, the prosecutrix was present at her house. It was about 8:00 p.m. The petitioner who is neighbour of the proxecutrix came to her and took her on his motorcycle to the grain market on the ground that funds were being distributed by the Government to the poor persons for construction of toilets. The prosecutrix thereafter accompanied him to village Manjh and thereafter petitioner drove his motorcycle towards village Kakkar and took her to village Sarangara where he caught the proxecutrix from her arm and forcibly took her in the field of paddy on the side of the road and in spite of her resistance, the petitioner forcibly and without her consent removed her trouser (*Salwar*) and

committed rape upon her and when the prosecutrix raised hue and cry the petitioner ran away on his motorcycle from the spot.

Learned counsel for the petitioner has argued that petitioner in this case is 18 years of age whereas the prosecutrix is of 80 years. As per allegation, petitioner committed rape upon her but in the medical examination only abrasion was found on the person of prosecutrix. He submits that a compromise dated 03.05.2019 has been arrived at between the parties and the affidavit of the prosecutrix dated 06.05.2019 in this regard has been attached with this petition.

Learned State counsel, on instructions from ASI Balwant Singh, states that the allegations against the petitioner are serious as he committed heinous crime of rape upon the prosecutrix. She states that chemical examiner report is still awaited and against 15 witnesses cited, only 5 witnesses have been examined including prosecutrix and doctor.

Heard learned counsel for the parties.

Petitioner is in custody since 23.03.2019 and in the absence of any medical evidence as chemical examiner report in the case has not been received so far, this Court finds that the culpability of the petitioner is yet to be established during the trial. The prosecutrix has been examined. Even matter has been compromised between the parties vide compromise deed/affidavit dated 03.05.2019. Medical examination of the prosecutrix nowhere suggest the sexual assault, though there are abrasion on the person of the prosecutrix. Taking into consideration the custody of the petitioner and the fact that culpability of the petitioner is yet to be established, this Court deems it appropriate to admit the petitioner on bail.

admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial court shall decide the case on the basis of available material.

13.01.2020

anil

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned = Yes/No.

Whether reportable= Yes/No.