

222.

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

CRM-M-27774-2020

Date of decision: 22.09.2020

DINESH KUMAR

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Sanpreet Sandhu, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

HARI PAL VERMA, J. (Oral)

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

This is second petition filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail in case FIR No.632 dated 07.06.2019 registered under Sections 363, 366, 376, 328 and 506 IPC at Police Station City, Jagadhri, District Yamuna Nagar.

The earlier petition filed by the petitioner i.e. **CRM-M-4697-2020** was dismissed as withdrawn vide order dated 04.03.2020 passed by this Court, however, with a direction to the trial Court to make an endeavour to examine the official witnesses on the adjourned date.

Counsel for the petitioner submits that the petitioner is in custody since 09.06.2019 and after 04.03.2020, no PW has been examined, of course due to Covid-19 epidemic as well. He states that the prosecutrix

has been examined in the case on 29.11.2019 and as per her own evidence, she do not remember when for the first time, she met with the petitioner. He further states that though in her statement, she has stated that the petitioner took her on a bike to Samrat Hotel which is located in a thickly populated area and a police booth is manned in that area, but she has not given any date, time and month when she was taken to that hotel. Further, the petitioner met her on a deserted road on 05.06.2019 and the prosecutrix was taken on a three-wheeler to the bus stand and from bus stand to Delhi, but throughout this journey, she never made any complaint which is sufficient to establish that sexual relations between the accused and the prosecutrix, if any, were consensual.

Learned State counsel does not dispute the custody. However, she submits that the prosecutrix has supported the case of the prosecution and the DNA profile matches in the case, establishes the involvement of the petitioner in the offence.

I have heard learned counsel for the parties.

Petitioner is in custody since 09.06.2019 and after March, 2020, no prosecution witness has been examined. The prosecutrix has stayed with the petitioner for about 4 days. She was taken to a Samrat Hotel at Jagadhri, but she has not spell out the date, time and month and in this manner, culpability of the petitioner is yet to be established during trial. Thus, this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court.

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.

(HARI PAL VERMA)
JUDGE

22.09.2020
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No