

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

**CRM-M-27540-2020 (O&M)
Date of decision : 15.10.2020**

PRAYAGRAJ

.....Petitioner

Vs.

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Ajay Bhardwaj, Advocate for the petitioner.

ALKA SARIN, J. (ORAL)

Heard through Video Conferencing.

The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail to the petitioner in FIR No.22 dated 17.03.2020 registered under Sections 120-B, 376-D and 34 of the Indian Penal Code, 1860 at Women Police Station, Manesar, Gurugram.

The case set up by the Prosecution is that on 17.03.2020, the Prosecutrix came present before the Police Station and alleged that her date of birth is 04.08.2001 and that she is working at Firstcry Company, Bilaspur for the last two months. It was her further allegation that on 14.03.2020 a boy named had called her to Gurugram and took her to his room in Bilaspur where four other boys were already present. Saurab and those other four boys consumed liquor and offered her a cold-drink and after that Saurab and Golu committed a wrong act with her. It was her further allegation that Saurab had taken Rs.50,000/- which she had withdrawn from the account of her friend namely Poonam. She further made an allegation that Saurab had caller her to Rewari on the pretext of

performing marriage but after that he switched off his phone and she spent the whole night at Rewari bus stand.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the case and has been in custody since 27.05.2020. He further contends that though the FIR talks about four persons, however, 05 persons have been arrested in the case. Learned counsel for the petitioner relies on the affidavits dated 06.05.2020 (Annexures P-4 and P-5) which have been executed by the Prosecutrix and her father.

Notice of motion.

Ms. Dimple Jain, AAG Haryana, has put in appearance on behalf of the respondent-State and has referred to the status report filed by way of affidavit of Shakuntla, HPS, Assistant Commissioner of Police, Manesar, Gurugram wherein it has been stated that the petitioner has been nominated in the disclosure statement of the co-accused Mahesh and Amit. She further contends that in the FIR, it is specifically stated that Saurab along with four other boys had drinks themselves and also gave the Prosecutrix a cold-drink and thereafter Saurab and Golu committed a wrong act with her. The presence of Saurab along with four other boys has clearly been mentioned in the FIR. The Prosecutrix has stated on similar lines in her statement under Section 164 CrPC.

I have heard learned counsel for the parties.

The allegations are of grave nature inasmuch as the Prosecutrix has alleged that Saurab along with four other boys had served her a laced drink and thereafter Saurab and Golu committed a wrong act

upon her. Though the Prosecutrix had not specifically named the petitioner in the FIR, however, it is the specific case of the Prosecutrix that Saurab and four other boys were involved in the present case, the petitioner being one of them. Further, the reliance by the learned counsel for the petitioner on the affidavits stated to have been given by the Prosecutrix and her father also cannot be looked into at this stage inasmuch as both the deponents in the affidavits have not been identified by anyone. As per the Rules and Orders of the Punjab and Haryana High Court, the requirements of executing an affidavit inter-alia are as under:

“Every person making an affidavit shall, if not personally known to the Court, Magistrate or other officer appointed to administer the oath or affirmation, be identified to such Court, Magistrate or Officer by some person known to him; and such Court, Magistrate or officer shall specify, at the foot of the affidavit, the name and description of the person by whom the identification is made, as well as the time and place of the identification and of the making of the affidavit.”

Further, the Prosecutrix is yet to be examined in the present case.

In view of the above and the gravity of the offence alleged to have been committed, there is no justifiable ground made out for grant of concession of bail to the petitioner. I do not deem this to be a fit case for grant of bail to the petitioner and the present petition is, accordingly, dismissed.

It is made clear that nothing observed herein shall be treated as an expression of opinion on the merits of the case.

October 15, 2020
kv

(ALKA SARIN)
JUDGE

Whether speaking/non-speaking: Yes/No
Whether reportable: Yes/No