

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

220

CRM-M-29317-2020

Date of Decision:09.11.2020

Prahlad

.....Petitioner

Versus

State of Haryana

.....Respondent

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

Present: Mr. Keshav Pratap Singh, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, A.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.

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.331 dated 08.08.2020 under Sections 376, 451, 511 IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station Pataudi, District Gurugram.

Learned counsel for the petitioner submits that the petitioner is in custody since 08.08.2020 and there is a contradiction in the ocular version as stated in the FIR viz-a-viz in the statement of the prosecutrix recorded under Section 164 Cr.P.C. Whereas in the FIR, she has stated that on the date of occurrence when she was sleeping in her room, the petitioner

after crossing the roof of his house had entered the house of the prosecutrix

and while pressing her mouth from one hand, he put his other hand in her *salwar*. He tried to commit rape upon her and when she raised the noise, her neighbour Ram Kumar son of Ganpat Ram came there. The petitioner fled away from the spot. In her statement recorded under Section 164 Cr.P.C., she made a different version. He refers to the affidavits(Annexures P-1 to P-5) of the neighbours, who are residing in the same locality, wherein they have stated that the allegations made by the prosecutrix against the petitioner are false and frivolous.

Learned State Counsel does not dispute the custody period of the petitioner. However, she submits that it is in the night time, the petitioner had entered the house of the prosecutrix and tried to commit the offence as stated in the FIR. The prosecutrix rather reported the matter to the police by dialing 100 number and in this manner, the statement of the prosecutrix is very much specific against the petitioner.

Heard learned counsel for the parties.

Petitioner is in custody since 08.08.2020 is not in dispute. The ocular version as narrated in the FIR and in the statement recorded under Section 164 Cr.P.C., are at variance. Considering the fact that challan has been presented, and trial is not likely to be concluded in the near future as no witness has been examined in the case, 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 adequate bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate.

However, it is made clear that the observations made hereinabove shall not be construed as an expression on the merits of the

case and the trial Court shall proceed with the trial independently without being influenced by the order of bail passed by this Court.

November 09, 2020
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No