

227.

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

CRM-M-29924-2019

Date of decision: 28.02.2020

SONU @ ASHOK

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Sumit Sangwan, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

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 in case FIR No.20 dated 04.05.2018 registered under Sections 342, 363, 366A, 376D, 506, 34 of IPC and Sections 6 and 7 of POCSO Act, 2012 at Women Police Station, Charkhi Dadri, District Charkhi Dadri.

The aforesaid FIR was registered at the behest of the complainant with the allegation that in the intervening night of 03/04.05.2018 between 12.00 AM to 2.00 AM, his daughter has come to his shop so as to provide tea to him and when she was returning back, she was kidnapped by the accused Bir Singh son of Suresh, Sonu, Naveen and one unknown boy. The complainant tried to ran after the vehicle (Bolero), but the vehicle fled away towards Village Norangabas. His daughter is minor (her date of birth is 03.09.2000). When the complainant tried to trace out his

daughter, she was found in a room constructed in the field of of Jorawar Singh son of Bir Singh at about 7 AM and all the boys were there. His daughter told him that she was subjected to gang rape by Bir Singh, Sonu, Naveen and one another boy and they also threatened her that if she disclose it someone, they would kill her.

Learned counsel for the petitioner has produced a statement of the prosecutrix examined in the case on 19.02.2020 and submits that she has been declared hostile qua the petitioner as she has not supported the case qua him. She has specifically stated that the petitioner was not present at the time of incident with the other co-accused. He submits that the prosecutrix was subjected to medical examination and the DNA does not match with the petitioner. Since the prosecutrix has not made any allegation against the petitioner during her statement before the court, the petitioner is likely to be acquitted in the trial. Petitioner is in custody since 04.05.2018.

Learned State counsel, on instructions from ASI Ajit Singh, does not dispute the custody and the fact that the prosecutrix was subjected to medical examination and DNA matches with the co-accused Bir Singh. She further states that the complainant and the prosecutrix in their respective statements stated that in initial version on the basis of which FIR was registered and in her statement under Section 164 Cr.P.C., she has specifically named the petitioner. Therefore, merely because she has become hostile qua the petitioner is no ground to admit him on bail.

I have heard learned counsel for the parties.

Petitioner is in custody since 04.05.2018. The prosecutrix in the case has been examined as PW4 wherein she has identified the co-accused

Bir Singh and Naveen and has further stated that the petitioner was not present at the time of incident with the other co-accused.

In the light of aforesaid statement of the prosecutrix when the culpability is yet to be established during the trial and the petitioner is in custody since 04.05.2018, this Court deems it appropriate to admit him 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.

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.

(HARI PAL VERMA)
JUDGE

28.02.2020
sanjeev

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