

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

227

CRM-M-35841-2020

Date of Decision:11.11.2020

Dayanand Sharma @ Bunty

.....Petitioner

Versus

State of Haryana

.....Respondent

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

Present: Mr. Rahul Sharma, 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-Dayanand Sharma @ Bunty in FIR No.139 dated 20.03.2020 under Sections 376, 342 IPC, registered at Police Station Palam Vihar, District Gurugram.

The aforesaid FIR was registered at the behest of the complainant-Netrapal, who happens to be father of the prosecutrix. As per FIR, the prosecutrix is 19 years of age and on 18.03.2020 at about 7.30 PM, when the prosecutrix went from home, so as to throw garbage, on the way the petitioner enticed her away to the rented room on his motorcycle and committed sexual assault upon her against her wishes. He kept the prosecutrix confined in the room. When the prosecutrix became ill, the

petitioner got her admitted in SPEC hospital, Gurugram and when the condition of the prosecutrix become deteriorated, she was referred to the General Hospital, Sector-10, Gurugram for medical treatment. Thereafter, the police officials of Police Station Palam Vihar, Gurugram reached there, to whom she disclosed the whole incident and the present FIR has been registered against the petitioner.

Learned counsel for the petitioner has argued that the petitioner is in custody since 21.03.2020. The version given in the FIR as well as the statements of the prosecutrix recorded under Section 161 Cr.P.C. dated 20.03.2020(Annexure P-3) and the statement of the prosecutrix recorded under Section 164 Cr.P.C. on 21.03.2020, are at variance, Whereas in the FIR, the complainant has stated that the prosecutrix has gone to throw garbage and in this process, the petitioner took her on his motorcycle to his rented room, where he did sexual assault with her, in her statement recorded under Section 161 Cr.P.C. dated 20.03.2020(Annexure P-3), she has stated that the petitioner has offered a job to her and believing on his words, she boarded his bike. Thereafter, she was taken to his rented room at Palam Vihar, Gurgaon, where he committed sexual assault. In her statement recorded under Section 164 Cr.P.C., she has improved her version and had stated that on 18.03.2020 at about 4.00 PM, the petitioner made a call to the prosecutrix to send her resume, so as to arrange a job for her. The petitioner had asked the prosecutrix to come in front of MG Metro Station, from where he took her forcibly on his motorcycle to a rented room. On reaching the room, the petitioner offered her cold drink, which she did not take. Thereafter, he locked the room, pushed her on the bed and removed her clothes including her undergarments and forcibly committed sexual assault

upon her. He repeated the same act 3-4 times after 40 minutes of the first assault.

Learned State Counsel does not dispute the custody period of the petitioner.

Heard learned counsel for the parties.

Considering the variance in the ocular version as detailed in the FIR, statement of the prosecutrix recorded under Section 161 Cr.P.C. and in her statement dated 21.03.2020 recorded under Section 164 Cr.P.C., this Court finds that there is variance in all the statements. In this manner, culpability of the petitioner is yet to be established during the course of trial. Petitioner is in custody since 21.03.2020. In view of COVID-19 pandemic, trial is not likely to be concluded in the near future. 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 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 11, 2020
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No