

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

219

CRM-M-35760-2020

Date of Decision:26.11.2020

Suresh Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

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

**Present: Mr. Nirmal Singh, Advocate,
for the petitioner.**

Mr. Bhupender Singh, D.A.G., Haryana.

**Mr. S.N. Pillania, Advocate,
for the complainant.**

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.36 dated 20.05.2020 under Sections 376(2)(n), 450 IPC (the offence under Section 67 of the I.T. Act was added later on), registered at Police Station Women, Kurukshetra.

The aforesaid FIR was registered at the behest of the prosecutrix aged about 34 years of age. As per FIR, the petitioner who was a tenant in the house of the prosecutrix at Hisar since the year 2007-08, family relations developed between the petitioner and the prosecutrix. In the year 2013, the petitioner had come to the house of the prosecutrix at

prosecutrix on phone. In the month of May 2014 at noon, when the prosecutrix was alone in her house, as her parents were not at home on account of some work, the petitioner came to her house and stated that he had some dispute with his wife and will get divorce from her, as he wanted to marry with the prosecutrix. He forcibly developed physical relations with the prosecutrix and had made her video. He raped her time and again while extending threat that he will get her video viral. Thereafter, the prosecutrix has gone to Hisar for her HTET exam, where the petitioner committed rape number of times by extending threat of getting her video viral.

Learned counsel for the petitioner has argued that the alleged first incident has taken place in May 2014, whereas the present FIR has been registered on 20.05.2020. The relations between the petitioner and the prosecutrix, if any, were consensual. There is no specific date, time and place, when the petitioner committed rape. The allegations are general. He further submits that as per the FSL report, human semen was not detected in the case. Petitioner is in custody since 07.07.2020 and trial is not likely to be concluded in the near future.

Learned State Counsel does not dispute the custody of the petitioner. However, he submits that the allegations against the petitioner are serious and he established physical relations with the prosecutrix on the pretext of marriage despite the fact that he was already married.

Similarly, learned counsel for the complainant has argued that there are specific allegations against the petitioner in the FIR as well as in the statement of the prosecutrix recorded under Section 164 Cr.P.C. The petitioner had been committing rape upon her by extending threat that, in case, the prosecutrix would not establish physical relations with him, he

would viral her video.

Heard learned counsel for the parties.

Petitioner is in custody since 07.07.2020. Human semen is not detected in the case. The first incident of rape was committed somewhere in May 2014. Thereafter, the parties are meeting at regular interval. After about more than six years, the present FIR has been registered against the petitioner. The ground that the petitioner established physical relations with the prosecutrix on the pretext of marriage after taking divorce from his earlier wife, is a matter to be appreciated and culpability of the petitioner in the case is yet to be established during the course of trial. Moreover in view of COVID-19 pandemic, conclusion of trial will take sufficient long time. 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 26, 2020
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No