

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

220

CRM-M-36365-2020

Date of Decision:26.11.2020

Shokeen

.....Petitioner

Versus

State of Haryana

.....Respondent

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

**Present: Mr. Munfaid Khan, Advocate,
for the petitioner.**

Mr. Bhupender Singh, D.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.280 dated 07.12.2019 under Sections 323, 498-A, 376-D, 506 IPC and Section 67-A of the Information and Technology Act, 2000, registered at Police Station Nagina, District Nuh.

Learned counsel for the petitioner has argued that the petitioner is in custody since 01.07.2020. The FIR was registered on 07.12.2019, whereas the alleged incident is of three months prior to the registration of the FIR. There is no DNA/FSL report in the case, so as to establish the fact that the prosecutrix was ever subjected to rape. The relations between the petitioner and the prosecutrix, if any, were consensual. The petitioner has

neither prepared the video nor viral the same. Trial in the case is not likely to be concluded in the near future as other co-accused has not been arrested in the case.

Learned State Counsel does not dispute the custody period of the petitioner. However, he submits that the petitioner and other co-accused have prepared a video, wherein the accused can be seen. Taking advantage of the dispute between the prosecutrix and her husband, she was taken to a Molana for her medical treatment, so as to remove her worries in her married life. The accused offered a bottle of pepsi and after drinking the same, she became semi-unconscious. She was taken to the jungle, where she was raped by the petitioner and other co-accused and her objectionable videos were also prepared. The prosecutrix could not inform the police immediately after the incident on account of social pressure.

Heard learned counsel for the parties.

Petitioner is in custody since 01.07.2020. The FIR has been registered after three months of the alleged incident of commission of rape. There is no medical evidence as regards DNA/FSL report, so as to establish the offence of rape committed by the petitioner. The allegation of preparation of video is on the other co-accused. The culpability of the petitioner 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