

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

CRM-M-40320-2019

Date of Decision:07.01.2020

Roshan Kumar Mishra

.....Petitioner

Versus

State of Haryana

.....Respondent

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

Present: Mr. Lalit K. Gupta, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.97 dated 25.06.2019 under Sections 376, 506 IPC, registered at Police Station Women, N.I.T., Faridabad, Haryana.

The aforesaid FIR was registered at the behest of the prosecutrix who is a student of B. Tech 3rd year and has developed friendship on facebook with the petitioner. As per FIR on 25.12.2018, she received a mobile call from the petitioner that he wanted to meet her. As per call, the petitioner was standing near to her house and therefore, the prosecutrix has gone to meet him. The petitioner persuaded her to take to his room, where nobody was present. He took her in a room and committed rape upon her against her wishes. However, when the prosecutrix tried to raise the noise, petitioner shut her mouth. When the prosecutrix told the

petitioner that she will disclose to her parents, he(petitioner) threatened her that if she will disclose it to anybody, he would kill her and stated that he had taken her objectionable photographs which he would otherwise viral. He kept on threatening her daily on phone either to make relations with him or he would defame her.

Learned counsel for the petitioner has argued that the petitioner is in custody since 04.07.2019. The alleged incident has taken place on 25.12.2018. But even thereafter, the prosecutrix is staying with the petitioner in different hotels. He refers to Guest Registration book of Hotel K.S. Pal, Kurukshetra, Annexure P-3(colly.), wherein the petitioner and the prosecutrix have made their entries in the Guest Register which is signed by both of them. He also refers to Guest Registration book of Hotel Dzure, Rohtak. As per this Guest Registration, the prosecutrix stayed with the petitioner in this hotel on 03.03.2019 for a night. He further states that the prosecutrix has been extracting money from the petitioner. He has referred to entry as mentioned in Annexure P-2(colly.), whereby an amount of Rs.1400/- was transferred in the name of the prosecutrix. He has argued that the relations between the parties, if any, were consensual in nature. Moreover, she has not raised any objection as regards her stay with the petitioner in hotels on 19.02.2019 (at Kurukshetra) and on 03.03.2019 (at Rohtak), whereas the incident which has allegedly taken place prior to these dates i.e. 25.12.2018 has been made the very basis for the alleged occurrence.

Learned State Counsel, on instructions from ASI Monika, does not dispute the custody period. However, she submits that there are specific allegations against the petitioner for the commission of rape upon the

prosecutrix. Even if the entries of the hotels are considered, it does not give weightage to the petitioner from the alleged occurrence which has taken place on 25.12.2018.

Heard learned counsel for the parties.

Petitioner is in custody since 04.07.2019. The case was fixed for 23.10.2019 and 11.12.2019 before the trial court for evidence of the prosecutrix, but she has not been examined in the case. Though, now the case is fixed for 17.01.2020 for examination of the prosecutrix and despite having two opportunities granted to the prosecutrix on 23.10.2019 and 11.12.2019, she has not come forward to depose in the case, thus this Court finds that the petitioner deserves to be admitted 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.

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.

January 07, 2020
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No