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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43321-2019 (O&M)

Date of decision: 23.01.2020

ABDUL VAKIL MAULVI

... Petitioner

versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Lakhwinder S. Sidhu, Advocate,
for the petitioner.

Mr. Hittan Nehra, Additional Advocate General, Punjab.

HARI PAL VERMA, J. (Oral)

CRM-38064-2019

Prayer in this application filed under Section 482 Cr.P.C. is to place on record the statement of the prosecutrix under Section 161 Cr.P.C. as Annexure P-6, her statement under Section 164 Cr.P.C. as Annexure P-7 and her cross-examination as Annexure P-8, and for exemption from filing certified copies thereof.

For the reasons stated in the application, same is allowed and the documents-Annexures P-6 to P-8 are taken on record, subject to all just exceptions.

CRM-M-43321-2019

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.07 dated 25.01.2019

registered under Section 376 of IPC (Section 506 IPC added lateron) at Police Station Bhikhi, District Mansa.

The aforesaid FIR was registered at the behest of the complainant with the allegations that on 09.11.2018, the petitioner came to her house and while projecting himself as a *baba*, on the pretext of solving their house problems, he gave some intoxicant substance in the mutton to the complainant and her entire family. While they became unconscious, the petitioner committed rape with the complainant and prepared a video also.

Learned counsel for the petitioner has argued that the petitioner is in custody since 02.05.2019. The family of the petitioner and the complainant are otherwise known to each other since long. The petitioner has not committed the offence as alleged, as even in the medical/DNA report, no such allegation was found proved against the petitioner. In the second incident i.e. 30.11.2018, the complainant along with her husband has accompanied the petitioner to the State of UP and since there was some money dispute between the parties, it is in order to extract money, the present FIR has been registered against the petitioner.

Learned State counsel does not dispute the custody and submits that as against the total 15 witnesses cited by the prosecution, 6 witnesses have already been examined, whereas 2 witnesses have been given up. The allegations against the petitioner are serious as he has mixed *bhabhuti* in the mutton and when everybody consumed that non-veg, they became unconscious and taking advantage of this sedative, the petitioner has committed rape upon the complainant and prepared a video.

I have heard learned counsel for the parties.

Petitioner is in custody since 02.05.2019. The FSL report, attached with the paper book, reveals that human semen was not detected on swabs stated to be of the complainant (source: Exhibits A-1, A-2). Moreover, the first incident has taken place on 09.11.2018, but she has not reported that matter to the police or to any body. The pleaded ground that since the petitioner has taken photographs, is a subject to be adjudicated during trial. The video was not recovered during investigation and is not part of the challan.

With this background when the petitioner is in custody since 02.05.2019, complainant has been examined in the case and still as many as 7 witnesses are required to be examined, this Court finds that trial in the case will take sufficient long time and thus, 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 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

23.01.2020
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Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No