

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

222

CRM-M-43971-2019

Date of Decision:31.01.2020

Deepak @ Deepu Sharma

.....Petitioner

Versus

State of Haryana

.....Respondent

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

Present: Mr. Arpandeep Narula, 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.628 dated 02.08.2017 under Section 346 IPC (the offences under Sections 328, 376(2)(N), 370-A IPC, Section 6 of the POCSO Act and Sections 4, 5 & 6 of the Immoral Traffic Act were added later on), registered at Police Station City Sirsa.

The aforesaid FIR was registered at the behest of the complainant. As per FIR on 19.07.2017, daughter of the complainant who is about 14 years of age studying in 7th class in Govt. School, Chatargarh Patti, Sirsa had gone to school for her studies. However, after school hours, she did not return. When no information was received about her whereabouts, the matter was reported to the police.

Learned counsel for the petitioner states that the petitioner is in

custody since 22.03.2018. The prosecutrix has left her house on 19.07.2017, whereas the present FIR was registered on 02.08.2017. Moreover, the prosecutrix in her statement recorded under Section 164 Cr.P.C. has not made any allegation against the petitioner and it is on the basis of statement of co-accused Kuldeep, the petitioner has been dragged in the case. Except the statement of co-accused Kuldeep, no one has deposed against the petitioner. Even during her evidence, she(prosecutrix) has not named the petitioner.

Learned State Counsel does not dispute the custody period and submits that as against total 18 witnesses cited by the prosecution, 15 witnesses have been examined in the case. However, she is fair enough to state that there is no allegation of commission of rape against the petitioner and he has been named as an accused on the basis of statement of co-accused Kuldeep.

Heard learned counsel for the parties.

Petitioner is in custody since 22.03.2018. He has not been named by the prosecutrix either in the statement recorded under Section 164 Cr.P.C. or during her evidence when she was examined by the trial court. He is being named as an accused because of statement of co-accused Kuldeep, this Court finds that culpability of the petitioner is yet to be established during the course of trial. Therefore, 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 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 31, 2020
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No