

**IN THE HIGH COURT OF PUNJAB AND HARYANA**

**AT CHANDIGARH**

**Criminal Misc. No.M-47002 of 2019 (O&M)**

**Date of Decision: 09.01.2020**

Amandeep

...Petitioner (s)

Versus

State of Haryana

...Respondent(s)

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

Present:- Mr. Arun Gupta, Advocate for  
Mr. I.S. Pabla, Advocate  
for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.  
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**HARI PAL VERMA, J. (Oral)**

**CRM-430-2020:**

The application is allowed, as prayed. Documents Annexures  
P-2 to P-5 are taken on record subject to all just exceptions.

**Criminal Misc. No.M-47002 of 2019:**

Prayer in the present petition filed under Section 439 of the  
Code of Criminal Procedure, 1973 is for grant of regular bail to the  
petitioner in case FIR No.55 dated 17.06.2019 under Sections 452, 506 IPC  
and Sections 6 and 8 POCSO Act registered at Police Station Women,  
Kurukshetra.

The aforesaid FIR was registered at the behest of the prosecutrix. As per the FIR, on 17.06.2019 at about 4-30 P.M., the prosecutrix was alone in her house, as her mother and elder sister had gone to a *Gatta* factory to work and her father, who is an auto mechanic, had gone to his shop. The petitioner entered the house of the prosecutrix by jumping over the wall and held the prosecutrix. Suddenly, younger sister of the prosecutrix came inside the house after hearing the voice of the prosecutrix and called her mother and sister, who got the prosecutrix released from the clutches of the petitioner. The police was informed on Women Helpline No.1091.

Counsel for the petitioner has argued that the alleged incident had taken place on 17.06.2019, but no rape was committed upon the prosecutrix on the said date. There is no medical report to support the allegation of rape. In fact, the petitioner and the prosecutrix were known to each other and it was the prosecutrix who had called the petitioner. The story has been framed by the prosecutrix and on the alleged date, all family members were present at the house. The petitioner is in custody since 17.06.2019.

Learned State counsel, on instructions from ASI Kamlesh Kumari, does not dispute the custody of the petitioner. However, she submits that the prosecutrix has been examined in the case and she has supported the case of the prosecution. She further submits that since the petitioner has been committing sexual assault upon the prosecutrix in the past also, the medical report could not support the version of the

prosecution for commission of rape upon the prosecutrix on the relevant date.

I have heard learned counsel for the parties.

The alleged incident had taken place is 17.06.2019 and on that very date, the FIR in question was registered. Though the allegation against the petitioner is that he has committed sexual assault upon the prosecutrix, but there is no medical evidence to support the case of the prosecution to this effect. Thus, culpability of the petitioner is yet to be decided during the course of trial. Considering the fact that the petitioner is in custody since 17.06.2019 and trial in the case is not likely to be concluded in near future, as 7 prosecution witnesses out of the total 18 prosecution witnesses are yet to be examined, this Court deems it appropriate to release the petitioner on regular bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of his bail bonds/surety bonds to the satisfaction of trial Court.

However, it is made clear that the observation made hereinabove shall not be construed as an expression on the merits of the case.

January 09, 2020  
**AK**

**( HARI PAL VERMA )**  
**JUDGE**

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No