

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CRM-M-48461 of 2019.

Decided on:- January 10, 2020.

Amit Kumar.

.....Petitioner.

Versus

State of Haryana and another

.....Respondents.

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

Present:- Mr. Rahul Jaswal, Advocate for the petitioner.

Ms. Priyanka Sadar, A.A.G., Haryana.

HARI PAL VERMA, J. (Oral)

The petitioner has filed present petition under Section 439 Cr.P.C. seeking regular bail in FIR No.353 dated 11.06.2019 under Sections 376, 506 and 509 IPC registered at Police Station Samalkha, District Panipat.

Learned counsel for the petitioner has submitted that the allegation against the petitioner is that he established relations with the prosecutrix, who is a married lady, on the pretext of marriage and it is for this reason, she has got a decree of divorce by way of mutual consent from her husband Shalender, but thereafter, the petitioner had refused to marry her.

He has further contended that though it would be a third marriage of the prosecutrix, the petitioner is still ready to solemnise marriage with her. The petitioner is in custody since 15.06.2019 and the trial is not likely to be concluded in near future. As against total 15 witnesses cited by the prosecution, only 1 witness has been examined in the case so far. He has referred to the statement of the prosecutrix as PW1 to contend that in her cross-examination, she has deposed that there is only one room in her house,

where 5 members are residing and her father remained present in the rental accommodation. In this manner, when the father of the prosecutrix remained present, the rape cannot be committed in the room in his presence.

Learned State counsel states that the FSL report in the case is awaited. However, she admits that the petitioner is in custody since 15.06.2019 and only 1 prosecution witness i.e. the prosecutrix has been examined in the case so far.

I have heard learned counsel for the parties.

The petitioner is in custody since 15.06.2019. In the absence of FSL report so as to establish the sexual assault, this Court finds that the culpability of the petitioner is yet to be established during the trial. Moreover as against total 15 witnesses cited by the prosecution, only 1 witness i.e. the prosecutrix has been examined in the case. In this manner, the possibility to win over the prosecutrix is completely ruled out. Therefore, no useful purpose would be served by keeping the petitioner in further custody.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing adequate bail bonds and surety bonds to the satisfaction of learned trial Court.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case without being influenced with these observations in any manner.

January 10, 2020

Yag Dutt

**(HARI PAL VERMA)
JUDGE**

Whether speaking/reasoned:

Yes

Whether Reportable:

No