

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

CRM-M-50693-2019

Date of Decision:07.01.2020

Gurdit Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

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

Present: Mr. Sumeet Singh Brar, 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.0076 dated 23.07.2019 under Sections 376(2)(n), 204, 328, 384, 506 IPC, registered at Women Police Station Sirsa, District Sirsa, Haryana.

The aforesaid FIR was registered at the behest of the prosecutrix. As per FIR, the petitioner is a Granthi in a Gurdwara in Guru Nanak Nagar, Khairpur, Sirsa and six months before registration of the case, the prosecutrix has told the petitioner that she is having some stomach pain to which the petitioner has suggested her some ayurvedic medicine. He took her to his room, where he gave her medicine by dissolving it in the water. Thereafter, she became unconscious. Petitioner unclothed her and committed rape upon her. However, when the prosecutrix gained

unconsciousness, she opposed such wrong act and rather threatened that she

will initiate action against him. Petitioner threatened her that he has already clicked nude photographs of the prosecutrix and in case she will create any noise, he will upload the photographs on internet and he will spoil her married life. The prosecutrix became helpless. Thereafter, he started blackmailing her and extracted money from her which includes Rs.30,000/- at one time and Rs.20,000/- at different time by blackmailing her. Fed-up with the blackmailing by the petitioner, the prosecutrix requested him to leave her. Thereafter, the petitioner told her(prosecutrix) that in case she wanted to get rid of him, she has to come to bus stand with Rs.3 lakh. Accordingly, the prosecutrix in order to get herself free from the petitioner came to the bus stand along with Rs.3 lakh. He took her to Chandigarh in the bus, where the accused stayed with the prosecutrix in a PG type hotel and did wrong things with her without her consent. He also extorted Rs.3 lakh and some gold jewellery worn by the prosecutrix i.e. one neck set, ear rings and two tops in forcible manner. The prosecutrix again asked him to give her photographs which were allegedly clicked by the petitioner, but instead of giving these photographs to the prosecutrix, he pushed her and asked her to run away from there. He rather threatened her that he will not give her photographs and in case she will open her mouth against the petitioner, he will kill her. Thereafter, the prosecutrix called her husband by taking phone from a Granthi of PGI Gurdwara, who informed the police and accordingly, the police reached at the spot and took her to Sirsa.

Learned counsel for the petitioner has argued that the petitioner is in custody since 23.07.2019. Petitioner is about 26 years of age, whereas the prosecutrix is around 45 years of age. The alleged incident has taken place at Chandigarh somewhere in June 2019, but there is no specific date

and time on which the alleged rape was committed upon the prosecutrix. He further states that it is only on 24.07.2019, the prosecutrix got her statement recorded under Section 164 Cr.P.C., wherein she has stated that she was taken to Chandigarh on 11.06.2019, where rape was committed upon her in a hotel. She has not disclosed the name of any hotel. The medical conducted on the person of the prosecutrix nowhere supports the case of the prosecution that rape was ever committed upon the prosecutrix, as no injury was found on her person. The case was fixed for 17.12.2019 before the trial court for prosecution evidence, but the prosecutrix has not come forward to depose in the case and now the case is adjourned to 24.01.2020.

Learned State Counsel, on instructions from ASI Ranbir Singh, does not dispute the custody period. However, she submits that taking advantage of his position as a Granthi, petitioner has sexually exploited the prosecutrix. He has taken her in his room, where he administered some medicine and after getting the medicine dissolved in the water, the prosecutrix became unconscious and taking advantage of her unconsciousness, he has committed rape upon her. He has taken nude photographs of the prosecutrix and continued to exploit her including the extortion of money from her. Thus, the allegations against the petitioner are serious.

Heard learned counsel for the parties.

Petitioner is in custody since 23.07.2019 is not in dispute. In the FIR, there is no such specific allegation as regards, time and date on which she was taken to Chandigarh, whereas it is only in her statement recorded on 24.07.2019 under Section 164 Cr.P.C., she has stated that on

11.06.2019, she was taken to Chandigarh by the petitioner in a hotel where rape was committed upon her. Similarly, in the statement recorded under Section 164 Cr.P.C., she has stated that she informed her husband from the hotel, whereas in the FIR, she has stated that she has informed her husband while taking phone from a Granthi of PGI Gurudwara. Thus, there is variation or improvement in the version of the prosecutrix. She has stayed in the hotel is not in dispute, but whether the relations established between the parties, were consensual or against her wishes, are the matter yet to be adjudicated of course by leading evidence. Moreover, the case was fixed for 17.12.2019 before the trial court for prosecution evidence, but the prosecutrix could not be examined on that day and now the case is fixed for 24.01.2020. Considering the fact that there is variation in the FIR version as well as in the statement recorded under Section 164 Cr.P.C., this Court finds that culpability of the petitioner is yet to be established during the course of trial. Thus, this Court 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 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
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(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No