

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

CRM-M-51391 of 2019.

Decided on:- February 04, 2020.

Arshdeep Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

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

Present:- Mr. Varinder Basa, Advocate
for the petitioner.

Ms. Ruchika Sabharwal, A.A.G., Punjab.

Mr. R.K. Arya, Advocate
for the complainant.

HARI PAL VERMA, J. (Oral)

The petitioner has filed present petition under Section 439 Cr.P.C. seeking regular bail in FIR No.75 dated 29.07.2019 under Section 376 IPC registered at Police Station Dera Baba Nanak, Tehsil Batala, District Gurdaspur.

The aforesaid FIR was registered on the statement of the prosecutrix, wherein she had stated that she is a married lady and has two daughters from the wedlock. Her husband is a truck driver. On 27.07.2019 at about 01.00 P.M., she was present at home alone. During this time, the petitioner entered her house and enquired about her husband. She told him that her husband had gone with his truck. Thereafter, the petitioner pushed her on bed and made her to inhale some intoxicant due to which she became unconscious. Taking advantage of her being unconscious, the petitioner committed rape upon her without her consent. In the meantime, her husband

also came and on seeing him, the petitioner ran away from the spot. Her husband threw water on her face and she regained consciousness.

Learned counsel for the petitioner has argued that the prosecutrix is a married lady with two children and she is about 24 years of age, whereas the petitioner is about 21 years of age. There is no medical evidence so as to connect the petitioner with the offence allegedly committed by him. Nothing has come during investigation as to what intoxicant material was given to the prosecutrix. Even otherwise, the parents of the petitioner are HIV positive patients. The petitioner is in custody since 29.07.2019 and the prosecutrix-complainant has already been examined in the case.

Learned State counsel does not dispute the custody and the fact that the prosecutrix has been examined in the case. She further states that as against total 13 witnesses cited by the prosecution, 3 witnesses, including the prosecutrix, have been examined in the case. She further states that DNA samples were not collected in the case.

Learned counsel for the complainant has argued that the allegations against the petitioner are serious. He had committed rape upon the prosecutrix in the absence of her husband and when husband of the prosecutrix reached the place of occurrence, the petitioner ran away from there.

I have heard learned counsel for the parties.

The prosecutrix is a married lady with two children from her marriage. DNA samples were not collected in the case. At this stage, noticing the fact that the petitioner is in custody since 29.07.2019 and the prosecutrix has already been examined coupled with the fact that the trial is not likely to

be concluded in near future, this Court deems it appropriate to admit the petitioner on bail.

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

It is made clear that the petitioner shall not extend any threat and shall not try to influence any prosecution witness directly or indirectly in any manner.

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.

February 04, 2020
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No