

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-54701 of 2019

Date of Decision: 08.01.2020

Kuldeep Singh

...Petitioner (s)

Versus

State of Haryana

...Respondent(s)

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

Present:- Mr. Amit Chaudhary, Advocate
for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

HARI PAL VERMA, J. (Oral)

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.253 dated 24.09.2019 under Sections 376(2)(n) and 506 IPC registered at Police Station Ratia, District Fatehabad.

The aforesaid FIR was registered at the behest of the prosecutrix. As per the FIR, the petitioner, who was residing in the neighbourhood of the prosecutrix, had been committing rape upon her for the last about 2 years and was threatening her that in case she will disclose this fact to anybody, he will viral her video/recording to her family members and in this manner, she would be defamed. On 04.09.2019, the

petitioner called the prosecutrix in the morning at about 8 A.M. and

threatened that in case she will not come to his house, her video will be made viral in the village. Due to this reason, the prosecutrix visited the house of the petitioner, where no one was present. She was taken by the petitioner to Aloopour and ran away from there. Her family members had taken her from there. The petitioner had raped the prosecutrix many times by threatening her to viral the video.

Counsel for the petitioner has argued that the alleged incident had taken place on 04.09.2019 whereas the present FIR was registered on 24.09.2019 i.e. after a delay of 20 days. He has referred to document Annexure P-4 attached with the petition, whereby the prosecutrix had represented to Superintendent of Police, Fatehabad that she was called by the petitioner on 04.09.2019 along with Rs.70,000/- in cash and 2 tola gold, which was snatched by the petitioner from her and also committed rape upon her. She was kept in custody by the petitioner till 15.09.2019. It is only on the complaint made by her on 14.09.2019, she was got released from the custody of the petitioner on 15.09.2019. Moreover, there is no medical evidence to support the case of the prosecution. At the most, the present is a case of consensual relationship between the petitioner and the prosecutrix. The petitioner is in custody since 24.09.2019 and trial is not likely to be concluded in the near future.

Learned State counsel, on instructions from SI Geeta, does not dispute the custody of the petitioner. However, she submits that the prosecutrix was subjected to medical examination, but the DNA report in the case is yet to be received, which will be the relevant factor so as to consider the prayer of the petitioner to admit on bail.

I have heard learned counsel for the parties.

As per the prosecutrix, the petitioner was committing rape upon her for the last about 2 years, but she has not made any complaint against him for these acts. Moreover, in the FIR version, she has not made any allegation as regards snatching of Rs.70,000/- and 2 tola gold from her. It is vide separate letter (Annexure P-4) written to Superintendent of Police, Fatehabad, the prosecutrix has levelled such allegations of snatching of Rs.70,000/- and 2 tola gold from her. In this manner, there seems to be improvement in the version of the prosecutrix. Moreover, the DNA report in the case is yet to be received, whereby culpability of the petitioner can be established. Considering the fact that the petitioner is in custody since 24.09.2019 and there is no medical evidence to support the case of the prosecution, coupled with the fact that trial in the case is not likely to be concluded in near future, as no witness has been examined in the case so far, 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 08, 2020
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No