

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

CRM-M-54475 of 2019.

Decided on:- February 11, 2020.

Iqbal.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. Jagjit Gill, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, 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.88 dated 10.08.2019 under Sections 323, 342, 376-D, 120-B, 109 and 506 IPC registered at Police Station Women Sirsa, District Sirsa.

As per the FIR, the prosecutrix is a married lady whose marriage was solemnised with Shishpal on 04.12.2004. There are two children from this wedlock. After her marriage, the husband of the prosecutrix used to beat her. Accused Rachna, who is wife of the petitioner used to organize *Jagran*. The petitioner used to visit her (prosecutrix) place quite often and the prosecutrix also used to come to their place. On 06.08.2019 at about 03.00 P.M., her (prosecutrix) husband Shish Pal took her to the house of Rachna (wife of the petitioner). She was locked in a room and Rachna and Shish Pal locked the door. The petitioner was already present in the room. Whereas

Rachna and Shish Pal took off her clothes, the petitioner committed rape upon her forcibly.

Learned counsel for the petitioner has argued that the petitioner is in custody since 18.10.2019. The alleged incident had taken place on 06.08.2019, whereas the FIR was registered on 10.08.2019. There is no medical evidence so as to connect the petitioner with the alleged offence. Even otherwise, it is impossible to commit rape upon the prosecutrix in the presence of her husband. Moreover, no wife would assist her husband to commit rape in her presence.

Learned State counsel, on instructions from ASI Kulwant Kaur, does not dispute the custody. However, she submits that the allegations against the petitioner are serious. The prosecutrix in the case has not been examined and, therefore, in case the petitioner is admitted on bail, he may influence the prosecution witnesses including the prosecutrix. Therefore, at this stage, the petitioner be not admitted on bail, as only Challan has been presented and the charges are yet to be framed in the case.

I have heard learned counsel for the parties.

It is not in dispute that the petitioner is in custody since 18.10.2019. The alleged incident had taken place on 06.08.2019, whereas the FIR was registered on 10.08.2019. No such medical evidence has been produced before this Court so as to establish the fact that the prosecutrix was subjected to sexual assault. No injury has been pointed out on the person of the prosecutrix. The conclusion of trial is likely to take long time, as only Challan has been presented in the case and the charges are yet to be framed.

Therefore, 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 11, 2020
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No