

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-54482 of 2019

Date of Decision: 07.01.2020

Vijay alias Chunna Pandit

...Petitioner (s)

Versus

State of Haryana

...Respondent(s)

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

Present:- Mr. Ram Bilas Gupta, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, 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.117 dated 23.07.2019 under Sections 498A, 323, 406, 506, 376, 511 IPC read with Section 34 IPC registered at Police Station Women Central, Faridabad.

The aforesaid FIR was registered at the behest of the complainant, who is wife of co-accused Gaurav Rajawat. The marriage of the complainant was solemnised with Gaurav Rajawat on 08.12.2017 and after this marriage, the petitioner used to visit the house of in-laws of the prosecutrix. On 17.03.2018, the petitioner entered in the room of the prosecutrix and tried to hug her. However, when the complainant informed

about this incident to her mother-in-law, she did not react to it, giving an impression that it had happened so with her (mother-in-law's) consent. The complainant reported this matter to her husband, but he also did not object to it. The petitioner used to come to the room of the complainant every day and tried to misbehave with her. He even instigated her in-laws against her. On 28.06.2018 at about 11-00 P.M., the petitioner again entered into the room of the complainant when her husband was sleeping in a room upside. He caught the prosecutrix from behind and tried to press her breasts. The prosecutrix pushed him and ran outside the room and informed her in-laws, but in return they tried to beat her and the petitioner had also given beating to her.

Counsel for the petitioner has argued that in fact the dispute is between the complainant and her husband. The alleged incidents have taken place on 17.03.2018 and 28.06.2018 whereas the FIR in question was registered on 23.07.2019 i.e. after more than a year. The prosecutrix was subjected to medical examination, but no such injury was reflected on her person. He has further submitted that charge in the case has been framed, but no witness has been examined in the case so far, though two opportunities were afforded to the prosecution. The petitioner is in custody since 30.08.2019.

Learned State counsel, on instructions from ASI Kallu Singh, does not dispute the custody of the petitioner. However, she submits that there are specific allegations against the petitioner, who tried to commit rape upon the victim-complainant. Even if the petitioner is in custody since

30.08.2019, it is no ground to admit him on bail when there are specific allegations like the present ones against him.

I have heard learned counsel for the parties.

In the background of the case, there is matrimonial dispute between the complainant and her husband, who is co-accused in the case and her mother-in-law is also an accused in the case. The petitioner is a tenant in the house of the co-accused for a long time. Considering the fact that the petitioner is in custody since 30.08.2019 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, 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 07, 2020
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No