

Law Today Live Doc. Id. 15143

PUNJAB AND HARYANA HIGH COURT

Before: Rajbir Sehrawat, J.

CRM-M No.14753 of 2020 (O&M)

Decided on: 21.07.2020

Harpreet Singh

Petitioner

Versus

State of Punjab

Respondent

In virtual Court

Present:

Mr. Ranbir Singh Sekhon, Advocate for the petitioner.

Code of Criminal Procedure, 1973 (2 of 1974), Section 438 -- Indian Penal Code, 1860 (45 of 1860), Sections 366, 376, 506, 120-B, 34 – Rape case – Regular bail -- Prosecutrix has categorically deposed as to having been raped by the petitioner -- However, State has not been able to dispute the cross-examination of the prosecutrix, where she has admitted that she had gone with the petitioner to various places -- Petitioner is in custody since 08.10.2018 and that out of 14, only 8 witnesses have been examined so far -- Petition allowed, the petitioner is ordered to be released on bail.

(Para 3, 7, 8)

JUDGMENT

RAJBIR SEHRAWAT, J. (ORAL) --

CRM-17114-2020

1. This application has been filed by the petitioner under Section 482 Cr.P.C. for placing on record the statement of prosecutrix as Annexure P-4.

2. The application is allowed and annexure P-4 is taken on record, subject to all just exceptions.

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3. The present petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of bail pending trial in case FIR No.150 dated 08.10.2018 registered under Sections 366 & 506 IPC (Section 376, 120-B & 34 IPC, added later on), at Police Station Sadar Kharar, District SAS Nagar (Mohali).

4. It is contended by the counsel for the petitioner that pursuant to the previous order he has placed on record statement of the prosecutrix. The cross examination of the prosecutrix shows that she has categorically admitted that she had gone with the petitioner to Delhi and stayed there in hotels. Thereafter she also visited Gurdwara along with the petitioner and stayed in Gurdwara also. Hence, this is entirely a consensual matter. The prosecutrix was major by age when she had chosen to accompany the petitioner. Hence, no offence of rape, as such, is made out. The petitioner is in custody since 08.10.2018. Out of 14 witnesses only 8 have been examined so far. The petitioner is not required for any investigation purposes.

5. Notice of motion.

6. Mr. Pawan Sharda, Sr. DAG, Punjab, accepts notice on behalf of the State.

7. Learned State counsel, being instructed by ASI Jivan Singh, has submitted that there are specific allegations against the petitioner. The prosecutrix has categorically deposed as to having been raped by the petitioner. However, the counsel for the State has not been able to dispute the cross-examination of the prosecutrix, where she has admitted that she had gone with the petitioner to various places. It is also not disputed that the petitioner is in custody since 08.10.2018 and that out of 14, only 8 witnesses have been examined so far.

8. In view of the above, but without expressing any further opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial subject to his furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

Petition allowed.
