

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

CRM-M-38607-2018

Date of decision:- 5.10.2018

Dinesh @ Dholu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr.R.A. Sheoran, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J. (Oral)

This petition has been filed for the grant of regular bail to the petitioner – Dinesh @ Dholu, an accused in FIR No.114 dated 1.5.2018, under Sections 452, 323, 376, 511, 506 IPC, registered at Police Station Bawani Khera, District Bhiwani.

Briefly stated, the facts of the case, as per the prosecution story are that the prosecutrix (name withheld to protect her identity in view of Section 228-A IPC and as per the directions given by the Hon'ble Apex Court in case titled State of Karnataka Vs. Puttaraja, 2004(1) RCR(Cri.) Supreme Court, 113 (SC) and referred to as *the prosecutrix*) and her sister Sarita married with Rakesh and Dinesh sons of Suraj Bhan

in the year 2008; they are having separate families; that on 30.4.2018 at about 8:00 a.m. while the prosecutrix was all alone and was doing cleaning work in her house, then her brother-in-law Dinesh entered the house of prosecutrix and put his hand on her waist, pulled her across to him; the prosecutrix offered resistance and threatened to raise alarm but Dinesh opened the string of her *salwar* by pulling it; the prosecutrix raised hue and cry, however, Dinesh started giving her fists and slap blows and even tore her clothes; that when the prosecutrix tried to flee, Dinesh hit her on her head with a wooden piece; that Sarita sister of the prosecutrix came and tried to rescue the prosecutrix but Dinesh also gave beatings to her and tore her clothes; that Dinesh left the spot while giving threats to the prosecutrix and her sister Sarita. The police was informed. Formal FIR was registered. Accused was arrested in this case on 20.5.2018. He had moved an application for regular bail in Court of Sessions at Bhiwani but was unsuccessful as the same was dismissed vide order dated 21.8.2018 passed by learned Additional Sessions Judge (Exclusive Court), Bhiwani, as such, he has approached this Court for grant of similar relief.

Notice of the petition was given to the State and State counsel has put in appearance.

I have heard learned counsel for the petitioner and learned State counsel besides going through the record.

Learned counsel for the petitioner has placed on file the statements of various witnesses recorded during the trial. The statement of prosecutrix goes to show that she has not supported the prosecution story at all against the accused rather stating that accused had not given any

injury to her and Sarita and he never tried to commit rape upon her. She was declared hostile at the instance of learned Public Prosecutor, who was allowed to put questions to her in the form of cross-examination but without any fruitful result. Sarita sister of the prosecutrix, an another eye-witness also did not state anything incriminating against the accused and was declared a hostile witness. The trial is going on and its conclusion is likely to take some time.

Under the circumstances, when the material witnesses for the prosecution having not supported its case, I find that the petitioner, who is in custody deserves to be granted concession of regular bail.

Accordingly, the petition is allowed. The petitioner be admitted to bail during the pendency of the trial, subject to his furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Bhiwani, subject to the following conditions:

- (i) he shall appear in the Court on each and every date of hearing;
- (ii) he shall not give any threat or intimidation to the prosecution witnesses; and
- (iii) he shall not leave India without prior permission of the Court and shall surrender his passport, if he has got one, otherwise to furnish affidavit in that regard.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

In case the petitioner violates any term and condition on

which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail.

It is clarified here that nothing discussed above be taken as any opinion on the merits of the case.

5.10.2018

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(H.S. MADAAN)**JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No