

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-42574-2017

Date of decision : 30.01.2018

Sunil

.....Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Nishant Raj, Advocate
for the petitioner(s).

Ms. Mahima Yashpal, A.A.G., Haryana.

ANITA CHAUDHRY, J.

The petitioner is seeking regular bail in FIR No.0057 dated 28.06.2017, registered under Section 376-D of IPC and Section 25 of Arms Act at Police Station Quilla, Panipat.

I have heard both the sides.

Learned counsel for the petitioner contends that the petitioner is in custody since 15.07.2017 and charge has been framed. Counsel further submits that the allegations under Section 376-D had been levelled against Sahab Singh and he was not named in the FIR and the allegations are that Sahab Singh's friend was holding a pistol and while the act was being committed, petitioner had put the pistol on her neck. Counsel submits that the challan has not been presented under the Arms Act and no pistol was recovered nor any identification parade was conducted.

State counsel states that Sahab Singh had made a disclosure statement and had named the petitioner and he was arrested. Subsequently,

Section 25 of the Arms Act was deleted and the investigation is over but no witness till now has been examined.

The complaint was made by a married woman against the husband's friend. The allegations are that when the husband left to collect the gas cylinder, Sahab Singh came home along with a friend and asked her to prepare tea and while she was inside he forced himself upon her and the petitioner pointed a pistol on her head and Sahab Singh committed rape upon her.

The main allegations are against Sahab Singh. No identification parade was conducted. It is the co-accused who had named the petitioner. It will be for the trial Court to see whether the disclosure suffered by co-accused can be read against the petitioner.

The trial would take time. Without commenting upon the merits of the case, the petition is allowed and the petitioner is directed to be released on regular bail on execution of adequate personal and surety bonds to the satisfaction of trial Court/Illaq Magistrate with a condition that he would not tamper with the evidence nor contact the prosecutrix.

January 30, 2018

ps-I

**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No