

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

CRM-M No.46624 of 2018
Date of decision: 11th December, 2018

Sushil Kumar

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Ravinder Hooda, Advocate for the petitioner.

Mr. Amrik Narwal, Dy. Advocate General, Haryana
for the respondent/State.

FATEH DEEP SINGH, J. (ORAL)

Allegations against the petitioner Sushil Kumar in this first regular bail application under Section 439 Cr.P.C. in case bearing FIR No.44 dated 01.03.2018 under Sections 376(2)(n), 452, 506 IPC pertaining to Police Station Israna, District Panipat, are that the case has been got lodged by the prosecutrix, a 19 years old married woman, who has alleged that the petitioner who is aged around 20 years, had been forcibly entering her dwelling unit at night when her husband used to be on duty and forcibly used to rape her against her wishes and which continued for 6-7 months and the last incident took place five months prior to the registration of the FIR and on which date the petitioner was arrested.

Learned counsel for the petitioner Mr. Ravinder Hooda inter-alia contends that the prosecutrix is a grown-up married woman and accepts that for a long period of time the alleged incidents have been taking place and she has kept silent over the same and therefore, shows a consensual relationship between the two and that the petitioner is behind bars since a long time.

Mr. Amrik Narwal, Dy. Advocate General, Haryana on instructions from ASI Surjit, Police Station Israna has sought to stoutly oppose the grant of bail on the grounds that trial is underway and that there are serious allegations of having ravaged a female neighbourer and if allowed bail the petitioner would stifle the investigations.

Appreciating the arguments of the two sides, it is own case of the prosecutrix that for a period of 6-7 months, the petitioner was forcing her into this relationship and rather is reflective of the consensus and her consent to this arrangement. It is admitted by the learned State counsel that the prosecutrix has since been examined at the trial, besides the fact that there is no medical evidence to support the allegations of rape, are matters of much relevance. The petitioner is behind bars for more than nine months. Culpability, if any, shall be determined at the trial which is not likely to conclude in the near future. Thus, this Court is of the view that this is a fit case to grant bail to the petitioner. Accordingly, he is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Panipat. However, it is made clear that

anything observed herein shall not be construed as an expression on the merits of the case.

The petition stands disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

December 11, 2018

rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No