

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-54262 of 2018 (O&M)
Date of decision : December 13, 2018

Dimple Chopra alias Dimpi

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Ms. Rishma Verma, Advocate, for the petitioner
Mr. Dhruv Dayal, Sr. DAG, Punjab for the State with
HC Ragbir Singh, PS Division No. 3, Jalandhar

Fateh Deep Singh, J. (Oral)

This order shall dispose of first bail application under Section 439 of Cr.P.C. of accused Dimple Chopra alias Dimpi filed in case FIR No. 104 dated 5.7.2016, under Sections 376, 506 IPC, Police Station Division No. 3, Jalandhar.

The brief allegations come from the side of the prosecution are that the prosecutrix is a girl aged around 23 years, student of Bachelor of Arts whereas the accused-petitioner being of the same age is doing a private job. It is alleged that on 22.7.2016 around 3.00 PM, the accused who used to follow her earlier and had threatened to kill her and her brother made her

to drink a glass of juice at 4.00 PM and after she became unconscious, it is alleged that the accused took her some where and ravished her thrice and on the next date on 3.7.2016 around 8.00 PM in the evening left her and on the basis of which the present case was got registered on 4.7.2016. The girl was medico legally examined on 5.7.2016 and the accused who was earlier declared proclaimed offender on 10.10.2017 was arrested on 27.7.2018.

Ms. Rishma Verma, counsel for the petitioner has sought to argue that both the petitioner and the prosecutrix are grown up mature persons both aged around 23 years and were known to each other as they belong to the same city and were in relationship and has sought to place reliance on photos Annexure P/3 arguing that there is no allegation against the petitioner of having physically assaulted the victim during this alleged sexual assault as the medical evidence does not corroborate the same.

Mr. Dhruv Dayal, Sr. DAG, Punjab assisted by HC Raghbir Singh, PS Division No. 3, Jalandhar has argued that the petitioner was initially declared as proclaimed offender and that the specimen sent to the Laboratory traces of semen have been detected and since the petitioner has deceived the prosecutrix, thus, is disentitled to any relief.

Appreciating the submissions of the two sides to the specific query of the Court nothing is suggestive from the medico legal report of the prosecutrix of sexual assault and the doctor has only opined traces of semen on the basis of the Laboratory report and there is no DNA analysis and the opinion on the basis of which is that there is history of sexual activity.

Besides the fact that the photographs numbering four by way of Annexure P/3 are reflective of some relationship between the two. The inordinate delay in the FIR, medico legal examination and the documentary evidence placed on the record by the petitioner side, a debatable issue arises over the nature of the relationship of the two and which can only be determined at the time of trial. The petitioner is behind the bars since long time. It is a fit case for releasing the petitioner on bail as culpability if any shall be determined at the time of trial which is not likely to be concluded in near future, no purpose will be served by retaining the petitioner in jail. Accordingly, he is ordered to be released on regular bail to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Jalandhar.

The present petition stands disposed off accordingly.

The observations made herein above shall have no bearing on the merits of the case as these are purely for the disposal of the present bail application.

December 13, 2018

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**(Fateh Deep Singh)
Judge**

*Whether speaking/reasoned ?
Whether Reportable ?*

*Yes/No
Yes/No*