

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-2581 of 2019 (O&M)
Date of decision : January 25, 2019

Prakash

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Neeraj Yadav, Advocate, for the petitioner
Mr. Baljinder Virk, DAG, Haryana for the State

Fateh Deep Singh, J. (Oral)

This order shall dispose of first regular bail application under Section 439 Cr.P.C. of accused petitioner Prakash filed in case FIR No. 179 dated 18.6.2018 initially registered under Section 346 IPC (later-on deleted) and Sections 366, 109, 114, 376, 201, 506 IPC and Sections 4/5 of Immoral Traffic Act, 1956, Police Station City Rewari.

The facts brought to the notice of the Court by the two sides are that daughter of complainant Suresh Kumar aged around 19 years on 12.6.2018 disappeared from her home and subsequently was got recovered on 11.7.2018. During the course of investigations it transpired that the victim had initially left the house with a lady Rakhi Dhan co-accused non-

applicant and went to a hotel in Delhi where she was ravished by one Shammi co-accused non-applicant and thereafter was taken to Santosh hotel in Rajasthan where the present petitioner accused Prakash is working as a Manager and thereafter was ravished by one Pawan and subsequently by the present petitioner from where the girl was got recovered. The petitioner was arrested on 15.7.2018.

Mr. Neeraj Yadav, learned counsel for the petitioner inter-alia contends that the name of the petitioner does not figures in the first statement and second statement of the victim recorded under Section 164 Cr.P.C. on 12.7.2018 and 13.7.2018 respectively and subsequently after a period of more than a week on 19.7.2018 in her statement under Section 161 Cr.P.C. has named the petitioner and thus sought to allege that it is a false and fabricated evidence to rope in the petitioner for this offence and that there is no corroborative evidence to show that rape has been committed upon the victim.

Mr. Virk, learned State counsel on instructions from ASI Lal Chand though has not displaced the facts which have been brought to the notice of the Court and accepts that neither any DNA profiling of the semen has been undertaken nor the medico legal report suggests any physical injury but has sought to oppose the grant of the bail submitting that it was a racket by the accused whereby young girls were procured to force them into flesh trade.

Going through the submissions, the victim is a major girl and

has left her home on her own in Rewari and has gone to Delhi where she stayed in a hotel along with co-accused non-applicants and subsequently had gone to Rajasthan and over a period of almost one month had remained away from her family and wandering on her own with multiple persons at different point of time. It is the own stand of the State that there is no specific role attributed to the petitioner till recording of the statement on 9.7.2018 which has come about after more than one month of the girl having eloped. Since it is the own case of the prosecution that the girl was in multiple relations with multiple persons who are accused in this case, to the specific query of the Court what role is attributed to the petitioner regarding offence of Immoral Traffic Act, the State counsel fairly concedes that there is nothing suggestive qua the present petitioner. Thus, in the light of such an intricate woven story where there are multiple accused and there is no corroborative evidence at this juncture to connect the petitioner with the commission of offence except the belated statement subsequently recorded that too after the girl never named the petitioner in her earlier two statements are matters which are highly debatable over the culpability. The petitioner is behind the bars for almost six months. Culpability if any shall be determined at the 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, Rewari.

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.

January 25, 2019

(Fateh Deep Singh)
Judge

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<i>Whether speaking/reasoned ?</i>	<i>Yes/No</i>
<i>Whether Reportable ?</i>	<i>Yes/No</i>