

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-5139 of 2019 (O&M)
Date of decision : February 26, 2019

Hawa Singh

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Deepak Saini, Advocate, for the petitioner
Mr. Baljinder Virk, DAG, Haryana for the State

Fateh Deep Singh, J. (Oral)

The petitioner Hawa Singh who happens to be father of principal accused Rahul and the latter was earlier married to Nisha Rani daughter of complainant Veena Kumari on 18.11.2013 and thereafter due to matrimonial dispute they had separated and Rahul under went second marriage with one Jyoti. It is alleged that earlier Nisha Rani had lodged FIR No. 25 dated 7.2.2017, under Sections 323, 354, 406, 498-A, 34 IPC against the in-laws. It is alleged that Rahul managed to procure an ex-parte divorce from Nishan vide ex-parte decree dated 1.12.2017 and it is during the course of the same Nisha Rani and his family comprising of 20 members

assaulted the complainant side and gave them beatings and it is alleged that Nisha's brothers defiled the complainant Jyoti leading to registration of this case in which the father of Nisha Rani is alleged to have assaulted the complainant.

Mr. Deepak Saini, counsel for the petitioner has argued that the petitioner is behind the bars since 20.9.2018 that there is no specific role attributed to him in the commission of the offence either in the FIR or statement under Section 164 Cr.P.C. of the complainant Jyoti and only vague insinuation has been levelled and co-accused have been allowed bail and that the allegations are false and fabricated and that the trial is not likely to be concluded in near future.

Mr. Baljinder Virk, DAG, Haryana assisted by SI Jitender, CIA-II, Ambala Cantt have opposed the grant of bail on the ground of heinousness of crime and seriousness of allegations arguing that the petitioner along with his co-accused have been instrumental in defiling a woman after assaulting her and therefore, if allowed bail, would influence the trial.

Going through the submissions, it is apparently a dispute over matrimonial life of Rahul with his first wife Nisha Rani and as a mark of vengeance against his second wife Jyoti the present complainant. A perusal of the FIR reflects no specific role to the petitioner in the commission of the offence and the allegations of rape are only confided to brothers of Nisha Rani. The petitioner is behind the bars since a long time and there is total

ambiguity as to the role of the petitioner to the commission of the offence. Culpability, if any, shall be determined at the trial together with the fact that initially the FIR was got registered at Gurugram by the side of Nisha Rani prior to the registration of the present case by Jyoti second wife and therefore, a debatable issue having arisen over the allegations of being a counter-blast which can only be resolved at the time of trial, 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, Ambala.

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.

February 26, 2019
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(Fateh Deep Singh)
Judge

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