

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M-11932 of 2019

Date of Decision: April 26, 2019

Khushdeep Singh

.....Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : None for the petitioner.

Mr. Amrik Narwal, DAG, Haryana.

FATEH DEEP SINGH, J. (Oral)

The brief allegations in this first regular bail application under Section 439 Cr.P.C. moved in FIR No. 146 dated 21.09.2018 under Sections 323, 34, 341 and 506 IPC and Section 354-B, 376 IPC, Section 3(W)(1) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Odhan, District Sirsa have been levelled by Sona Rani. In her complaint, the complainant alleges that on 19.09.2018 she alongwith her husband Jagtar Singh were returning after purchasing medicines on a motorcycle and in the area of village Panniwala Mota

accused/petitioner Khushdeep Singh alongwith co-accused-non applicant Satpal Singh and five other persons are alleged to have waylaid them. It is further alleged that the accused had tried to forcibly take away the complainant from the motorcycle but on the intervention of her husband, she was saved and one of the accused gave a blow of hockey stick which landed on the head of the complainant. However, the complainant and her husband managed to escape leading to the registration of the present case.

Mr. Amrik Narwal, DAG, Haryana assisted by ASI Bhoop Singh fairly concedes at the bar that it was after more than 1 year in the subsequent recorded statement allegations of rape have come about but has strongly opposed the bail in view of the allegations of the prosecution

Perusal of the records reveals that as per the stand of the complainant there is no allegations in the FIR as to the commission of offence of rape and what is reflected from the subsequent FIR No. 156 dated 09.10.2018, which has been lodged by the present petitioner against Jagtar Singh husband of the present complainant, Hardeep Singh and Gurdas Nikka and three other persons allegations have been levelled for causing injuries to the present petitioner side. The allegations and in the light of absence of medical evidence to corroborate these allegations, a debatable issue arises over the applicability of Section 376 IPC. More-so, a bare perusal of the FIR

even offences under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 are put to doubt. The petitioner is behind the bars since 20th November 2018 and, thus, has undergone a substantial period of incarceration.

In view of above and keeping in view the fact that culpability, if any, of the petitioner shall be determined at the trial which is not likely to be concluded in the near future, this Court is of the opinion that it is a fit case for grant of bail. Accordingly, the petitioner is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that anything observed herein shall not be construed as an expression on the merits of the case.

Disposed off.

April 26, 2019
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No