

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

CRM-M No.12740 of 2019
Date of decision: 26th March, 2019

Naveen Kumar

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Deepak Saini, Advocate for the petitioner.

Mr. Ripudaman, Asstt. Advocate General, Haryana
for the respondent/State.

FATEH DEEP SINGH, J.

Petitioner Naveen Kumar who is in custody since 21.09.2018 has filed the instant first regular bail application under Section 439 Cr.P.C. in case bearing FIR No.0257 dated 19.09.2018 under Sections 323, 365, 452, 376-D, 394 IPC pertaining to Police Station Ambala Cantt. The present case was got registered on the complaint of Veena Kumari. It is alleged that Rahul, son of the complainant, was earlier married to Nisha Rani on 18.11.2013 and as a consequence of matrimonial dispute, the couple separated. It is alleged that Rahul entered into a wedlock with Jyoti, the present victim. Meanwhile as per the allegations, Rahul procured an ex-parte divorce decree from Nisha Rani and as a sequel to it, it is alleged that on 19.09.2018 around 7:00 p.m. Nisha Rani along with her family and other persons, in all numbering around twenty, assaulted the complainant side. The allegations hover

around that brothers of Nisha Rani including the present petitioner Naveen Kumar had committed rape upon the second wife of Rahul and also caused injuries and robbed them of their valuables.

Learned counsel for the petitioner Mr. Deepak Saini inter alia contends that the petitioner is behind bars for more than six months and there is no specific allegation against him nor his name finds mention in the FIR and has sought to raise the plea that the stand of the complainant in her statements under Section 161 and 164 Cr.P.C. are self-contradictory. It is further submitted that co-accused non-applicants Hawa Singh has been granted the similar relief vide orders dated 26.02.2019 of this Court.

On behalf of the State, Mr. Ripudaman, learned Asstt. Advocate General, Haryana on instructions from SI Rishipal, Police Station CIA-II, District Ambala has opposed the grant of relief on the grounds that petitioner is one of the principal accused who has defiled a woman from the complainant side and that in view of the heinousness of the offence and seriousness of allegations disentitles the petitioner to any relief.

Appreciating the arguments of the two sides, admittedly the petitioner is behind bars for more than six months. The oral allegations levelled in the FIR of one of the victims, a woman, having been dragged on the street, have not been substantiated by any medical evidence, much less gang rape of the woman. Similarly placed co-accused non-applicant

Hawa Singh has been allowed the relief by this Court vide orders dated 26.02.2019. Admittedly the parties are at loggerheads over the matrimonial dispute and without feeling necessity to advert on to the merits, this Court is of the opinion that it is a fit case to allow the prayer as culpability, if any, shall be determined at the trial which is not likely to conclude in the near future. Accordingly, the petitioner is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Ambala. 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

March 26, 2019

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No