

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-40999 of 2018

Date of Decision: 10.01.2019

Salman

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. S.K. Tripathi, Advocate
for the petitioner.

Ms. Mahima Yashpal, AAG, Haryana.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner in case FIR No.36 dated 20.05.2018 under Sections 354-A/506/509 IPC and Section 376 IPC (added later on) registered at Police Station Women Cell, Ballabgarh, District Faridabad.

The allegation against the petitioner is that on 06.02.2018, he took the complainant to Hotel 999 where rape was committed upon her and accordingly, the present FIR was registered. He is in custody since 21.05.2018.

Learned counsel for the petitioner has argued that the complainant got engaged with the petitioner on 19.11.2017 and thereafter, they were meeting with each other regularly. He has further argued that the complainant in her statement under Section 161 CrPC has stated that she

had gone to the hotel with the petitioner on 06.02.2018 but it is after more than 3½ months, the present FIR has been registered.

Learned State counsel, on instructions from SI Sunita, submits that the complainant has made a statement under Section 164 CrPC wherein she has specifically stated that the petitioner has committed rape upon her against her wishes.

I have heard learned counsel for the parties.

It is the admitted case of the parties that the complainant and the petitioner were engaged on 19.11.2017 and they were regularly meeting. The allegation of rape is of 06.02.2018 whereas the FIR was registered on 20.05.2018. Considering the fact that the present FIR was registered after more than 3½ months from the alleged commission of rape i.e. on 06.02.2018, when the complainant had accompanied the petitioner to a Hotel 999 and the culpability is required to be established during trial and also the fact that the petitioner is in custody since 21.05.2018, this Court finds that no useful purpose will be served to keep the petitioner in custody any more. Therefore, this Court deems it appropriate to release him on regular bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of his bail bonds/surety bonds to the satisfaction of trial Court.

Needless to say that the observations made hereinabove shall not construe any opinion on the merits of the case.

January 10, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?
Whether reportable?

Yes / No
Yes / No