

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

CRM-M No.19554 of 2019 (O&M)
Date of decision: 28th November, 2019

Rajender @ Raju

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Vikas Bishnoi, Advocate for the petitioner.

Mr. Baljinder S. Virk, Dy. Advocate General, Haryana
for the respondent/State.

FATEH DEEP SINGH, J. (ORAL)

Petitioner Rajender alias Raju who is accused in case bearing FIR No.131 dated 31.07.2018 under Sections 341, 354, 376, 452, 506 IPC pertaining to Police Station Jakhal, District Fatehabad has sought regular bail under Section 439 Cr.P.C. The allegations against the petitioner have come from a married lady aged around 27 years alleging that the accused happens to be her distant relative and often visited their house. The complainant alleges that during the course of his visits, the accused used to make efforts at developing illicit relations with the complainant but on account of relations and humiliation of the society she kept mum and on 04.08.2017 the accused tried to make an attempt to defile her against her wishes. The complainant states that the accused did not desist from carrying on his activities and even thereafter has done so

a number of times and in-between had been threatening her with dire consequences but she remained silent.

Learned counsel for the petitioner Mr. Vikas Bishnoi, Advocate inter alia contends that the petitioner is behind bars for more than one year and one month and that neither there are any allegations of commission of rape in the FIR much less support by any medical evidence.

On behalf of the State, Mr. Baljinder Singh Virk, Dy. Advocate General, Haryana on instructions from ASI Dharampal, with all fairness concedes to what has been argued by learned counsel for the petitioner before this Court but has opposed the grant of bail on the grounds of seriousness of allegations.

Appreciating the arguments, as has been put up before this Court by the two sides there is nothing suggestive from the FIR of any act of rape committed by the petitioner and there are only general and vague insinuations bereft of any details. As is conceded to at the bar by learned State counsel, there is neither any medical evidence to corroborate the allegations nor any promptness in lodging the FIR as the alleged occurrence in the allegations has come about ten months prior to registration of the present case. As has been argued by the learned counsel for the petitioner and could not be displaced by the State, the prosecutrix happens to be a grown-up married lady. The photographs placed on the record (Annexure P2 and P3) are suggestive of a

consensual relationship. More so, there is nothing corroborative by way of medical evidence to support allegation of rape, and thus a debatable issue arises over the very applicability of Section 376 IPC which can only be adjudicated at the trial. In view thereof and the fact that the trial is not likely to conclude in the near future, this Court is of the opinion that no useful purpose will be served by keeping the petitioner in custody in the present case. Accordingly, he is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Fatehabad. 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

November 28, 2019

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No