

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-43038 of 2018

Date of Decision: 09.01.2019

Sube Singh

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

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

Present:- Mr. P.S. Sullar, 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.234 dated 29.05.2018 under Section 346 IPC and Sections 376 and 406 IPC (added later on) registered at Police Station Rai, District Sonapat.

Learned counsel for the petitioner submits that the alleged occurrence had taken place on 21.05.2018 whereas the FIR in question was registered on 29.05.2018 and the petitioner is in custody since 31.05.2018. Initially, the FIR was registered under Section 346 IPC but at a later stage, Sections 376 and 506 IPC were also added. He has argued that as per the FIR, which was registered by Rajiv i.e. husband of the prosecutrix (Rekha).

She had gone somewhere without informing the complainant and had taken Rs.7.5 lacs along with her. The complainant is a small time tea vendor and allegation of taking away such a huge amount by Rekha is well motivated.

Learned State counsel, on instructions from ASI Rajesh Kumar, submits that though the prosecutrix in her statement under Section 164 CrPC has not stated about rape, however, on the same day, when she made her statement under Section 161 CrPC, she has narrated the factum of rape having been committed upon her. The amount carried away by Rekha was Rs.75,000 and not Rs.7.5 lacs.

I have heard learned counsel for the parties.

It has been pointed out that as against the 18 witnesses cited by the prosecution, only 3 witnesses including the prosecutrix have already been examined so far. As per the FIR, the complainant, who is a resident of Vill. Indira Colony, Liwaspur is running a tea stall at Raddhana and his wife (prosecutrix) went somewhere along with Rs.7,50,000/- without informing him. (Though, learned State counsel has stated that in fact this amount was Rs.75,000/-). It has also been pointed out that the alleged offence of rape was committed at Narnaul whereas the FIR in question was registered at Rai, District Sonapat. The owner of Royal Restaurant, Narnaul, where rape was allegedly committed, has made a statement that the prosecutrix has made entry in the restaurant along with the petitioner which was signed by her. Thus, the culpability of the petitioner whether it was consensual act or rape is yet to be established during trial only.

The alleged occurrence had taken place on 21.05.2018 whereas the FIR in question was registered on 29.05.2018 and thus, delay

in lodging the FIR is one factor to be considered. Since the petitioner is in custody since 31.05.2018 and the culpability of the petitioner is yet to be established during trial and conclusion of trial will take long time, this Court finds that no useful purpose will be served to keep the petitioner in custody any more. I, therefore, deem 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.

January 09, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No