

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

CRM-M No.21442 of 2019
Date of decision: 17th May, 2019

Kulwinder Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Prateek Pandit, Advocate for the petitioner.

Mr. A.S. Sandhu, Addl. Advocate General, Punjab
for the respondent/State.

FATEH DEEP SINGH, J. (ORAL)

Petitioner Kulwinder Singh has come up in this first regular bail application under Section 439 Cr.P.C. in case bearing FIR No.126 dated 12.10.2018 under Sections 323, 354-B, 376-D, 506 IPC and Sections 21, 22, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 pertaining to Police Station Subhanpur, District Kapurthala. The allegations have been levelled by the complainant, an unmarried girl aged around 25 years, wherein she claims that she was hooked to drugs including heroin and was initially in contact with one Bhola (also referred to as 'Bholu') and subsequently on her asking he along with acquaintance of the complainant Swaran Singh started supplying her drugs and it is alleged that she came in contact with another co-accused non-applicant

Sonu with whom she stayed for almost three months and thereafter, all these accused used to supply her drugs and on 10.10.2018 on the birthday of co-accused non-applicant Jasbir Singh alias Shiri, the complainant claims that she was called out of the venue and was taken to the fields where she was defiled by Sonu and four other young boys and thereafter, she was left in an unconscious state. It is further claimed by the complainant that when she regained consciousness and while she was on the way she met co-accused non-applicant Satpal Singh alias Happy to whom she narrated the incident and who, instead of taking her to the Police Station, took her to a dwelling unit where the complainant alleged that the co-accused non-applicant Sukhwinder Singh alias Billa and the present petitioner Kulwinder Singh, who both were employed as security guards at a Mill, had forcibly defiled her against her wishes and thereafter the next morning had left her at the bus stand, leading to registration of the present case and arrest of the petitioner on 12.10.2018.

Learned counsel for the petitioner Mr. Prateek Pandit, Advocate inter alia submits that co-accused non-applicants Lakhwinder Singh alias Rimpa, Surjit Kaur, Swaran Singh and Sukhwinder Singh alias Billa etc. have been allowed regular bail by this Court on different occasions and that the case of the present petitioner is not distinguishable from that of his co-accused.

On behalf of the State, Mr. A.S. Sandhu, Addl. Advocate General, Punjab on instructions from SI Davinder Singh, Police Station Subhanpur, District Kapurthala though accedes to the facts that have been canvassed before this Court by learned counsel for the petitioner, but has strongly opposed the grant of relief on the grounds that challan against the accused has already been presented and the accused has been put to trial and if allowed bail the petitioner might influence the witnesses.

Appreciating the submissions of the two sides, as is there in the stand of the State, besides the present FIR, on similar allegations and akin facts, another FIR bearing No.146 has been got registered by the complainant in Police Station City Khanna and FIR No.136 with Police Station Division No.4, Ludhiana, and which could be refuted by the State by any means. The complainant is a grown up, mature lady and her previous conduct, as has been observed by this Court and a close look at the allegations levelled in the present case, a debatable issue arises over the veracity and truthfulness of the allegations and which can only be adjudicated at the time of trial, which is not likely to conclude in the near future. The petitioner is behind bars since a long time, and thus, this Court is of the considered opinion that no useful purpose will be served by keeping him 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, Kapurthala. 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

May 17, 2019
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No