

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

CRM-M No.52760 of 2018
Date of decision: 1st March, 2019

Anil

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. R.S. Arya, Advocate for the petitioner.

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

FATEH DEEP SINGH, J. (ORAL)

Allegations against the petitioner Anil in this first regular bail application under Section 439 Cr.P.C. in case bearing FIR No.186 dated 14.09.2018 under Sections 323, 328, 34 IPC pertaining to Police Station Sanoli, District Panipat, have been levelled by complainant Kajal wife of the petitioner. The allegations that have been brought to the notice of this Court are that marriage between the couple took place on 05.03.2017 and out of this wedlock a son has been born and on account of matrimonial dispute it is alleged by the wife that she was being physically as well as mentally tortured. It is further alleged that on 06.09.2018 around 8.30 p.m. while she was lying along with her baby, the accused husband started giving her beatings while her mother-in-law co-accused non-applicant Jagmati caught hold of her legs and her father-in-law co-

accused non-applicant Kashmiri Lal caught hold of her hands and then the present petitioner forcibly administered her “*All-out*” and as a consequence of which she alleged that she became unconscious and thereafter rushed to hospital from where she was discharged on 08.09.2018.

Learned counsel for the petitioner Mr. R.S. Arya contends that there is no medical evidence to establish that the alleged article so administered to the complainant was poisonous in nature nor the hospital record corroborates any forcible administration of the same and that the petitioner is behind bars for more than five months and that the trial is not likely to conclude in the near future.

Learned State counsel Mr. Ripudaman, Asstt. Advocate General, Haryana on instructions from ASI Siri Bhagwan has sought to oppose the grant of bail contending that as per the report of the FSL, insecticide has been detected in the exhibits and in view of the heinousness of the offence and the fact that trial is still to start there is every likelihood if allowed bail the petitioner would stifle the investigation.

Appreciating the submissions of the two sides, to the very specific query of the Court learned State counsel could not convince this Court as to any physical injury that has come in the medical record to establish the plea of forcible administration of the poisonous substance. Furthermore, treatment report shown to the Court rather displaces the

plea of the State that a poisonous substance was administered and rather the drugs so given at the time of treatment are regarding treatment of acidity, thus, a debatable issue arises in the light of this as to the very applicability of Section 328 IPC. The petitioner is behind bars since a long time. Culpability if any, shall be determined at the trial which will take a long time to conclude. Therefore, 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, Panipat. 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 1, 2019

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No