

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-26636 of 2019 (O&M)
Date of decision : July 04, 2019

Deepak

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr.Vijay K. Sheoran, Advocate, for the petitioner
Mr. Amrik Narwal, DAG Haryana for the State with
ASI Savita, PS Gannaur, District Sonapat

Fateh Deep Singh, J. (Oral)

Petitioner Deepak in this first regular bail application filed in case FIR No. 114 dated 20.7.2017 under Section 376 IPC (Challan presented under Sections 376/506 IPC & Sections 27/54/59 of the Arms Act), Police Station Women Rohtak, was arrested on 10.11.2018.

The allegations have come about by a married woman with a kid aged around 35 years alleging that on 20.7.2017 while she had come to Rohtak University for some work where she met the accused and exchanged mobile number and after she completed her work she again met the accused and both of them as per the allegations on the asking of the accused went to

a Juice Bar at the main gate and went upstairs and that the accused has tried to forcibly take the complainant in a cabin to which she resisted and forced herself out of the premises. Thereafter, as the allegations goes the complainant accompanied the petitioner in an Auto to a hotel and on the pretext of having tea she was taken into a room and against her wishes was defiled.

Mr.Vijay K. Sheoran, counsel for the petitioner has contended that the entire allegations on the face of it shows that the complainant who happens to be mature grown up married lady had volunteered into this relationship and there is no medical evidence to support her allegations. Further it is contended that the complainant in her belated statement under Section 164 Cr.P.C. had tried to improve her version by attributing the petitioner a pistol and that the petitioner is behind the bars since a long time and the trial is not likely to be concluded in the near future.

On behalf of the State, Mr. Amrik Narwal, DAG, Haryana though facts have not been displaced but the State counsel has sought to oppose the relief on the grounds of allegations being of serious nature and that the accused was initially declared a proclaimed offender and subsequently arrested, does not entitles him to any relief.

Going through the submissions, admittedly the complainant is a married grown up lady aged around 35 years. The statement made by her before the learned Judicial Magistrate under Section 164 Cr.P.C. and her

previous statement which forms the FIR are illustrative that she has repeatedly accompanied the accused after her initial claim that she was being forced into a cabin. The State counsel readily concedes that there is no mark of injury on the body of the complainant nor there is any medical evidence much less report of Chemical analysis to show the offence of rape. Thus, in these circumstances, a debatable issue arises over the applicability of the offence of rape which can only be set at rest at the trial. The petitioner is behind the bars since a long time and culpability if any would be determined at the trial. However, to safeguard the interest of the State, petitioner is ordered to be released on regular bail on furnishing heavy bail bonds with two sureties of the like amount to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Rohtak.

The present petition stands disposed off accordingly.

The observations made herein above shall have no bearing on the merits of the case as these are purely for the disposal of the present bail application.

July 04, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No