

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-28874 of 2019 (O&M)
Date of decision : November 25, 2019

Deepak Kumar alias Deepu

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Vaibhav Narang, Advocate, for the petitioner
Ms. Sakshi Bakshi, AAG, Punjab for the State

Fateh Deep Singh, J. (Oral)

The present case has been lodged by an un-married girl aged around 27 years who claims to be from neighbourhood of petitioner Deepak Kumar alias Deepu. It is alleged that on 17.8.2018 while she was present at the house of paternal aunt in the same locality and was washing her face when some body caught hold of her from the back and caught hold of her breast. The complainant managed to have a look and it was revealed that he was none else but the accused-petitioner Deepak Kumar alias Deepu who happens

to be brother of one Pawan Kumar, the latter having enticed and married sister of the prosecutrix and regarding which divorce proceedings were got initiated. The complainant alleged that the accused managed to place his hand on the mouth of the prosecutrix and took her in the adjoining room and tried to rape her at which the prosecutrix raised an alarm attracting others and the accused managed to escape. It is thereafter both the sides exchanged blows leading to injuries on the two sides including accused Deepak Kumar regarding which version and cross-version have come about.

Learned counsel for the petitioner inter-alia contends that it was a pure matrimonial dispute between the petitioner's brother and sister of the prosecutrix which is pending in a court and as a counter blast the present case has been got registered and has sought to highlight that it was the accused side who have received multiple injuries on vital parts. It is submitted that in the light of the fact that it is only an attempt to rape as per the own stand of the prosecution and the petitioner being in custody certainly entitles him to the concession of bail.

Learned State counsel has sought to oppose the bail on the grounds that the MLR of the girl is illustrative and corroborative of the allegations. It is claimed that it was a subsequent clash

between the two families which has led to these injuries which has no bearing upon the present allegations and only simple injuries have been caused to the other side which is mere out of spontaneous act in saving the honour of the girl.

Going through the submissions and injuries sought to canvassed at the bar by the petitioner side as well as complainant side are illustrative of claim and counter-claim over a dispute which has its genesis in the elopement of the sister of the complainant which has led to subsequent matrimonial disaccord. There are injuries to the two sides. The State counsel with all fairness concedes that there is only attempt to rape and thus a debatable issue arises over the very truthfulness of the two versions which are subject to evidence at the trial. The petitioner is behind the bars. Culpability, if any, would be decided at the trial which is not likely to be concluded in near future and no purpose will be served by retaining the petitioner in jail. Accordingly, he is ordered to be released on regular bail to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Amritsar.

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.

November 25, 2019

(Fateh Deep Singh)
Judge

'tiwana'

Whether speaking/reasoned ?

Yes/No

Whether Reportable ?

Yes/No