

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

CRM-M No.33151 of 2019

Date of decision: 20th August, 2019

Dhiraj

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Ms. Sukhpreet Kaur, Advocate for the petitioner.

Mr. Baljinder S. Virk, Dy. Advocate General, Haryana
for the respondent/State.

FATEH DEEP SINGH, J.

The petitioner Dhiraj Kumar who is accused in case bearing FIR No.184 dated 10.05.2019 registered under Sections 323, 328, 354-B, 354-D, 452, 506, 34 IPC and Sections 12 and 16 of the Protection of Children from Sexual Offences Act, 2012 pertaining to Police Station Ambala City, has sought regular bail under Section 439 Cr.P.C. in this case.

The present case was got registered on the complaint of a married lady, aged around 29 years having two daughters and two sons, whose husband is confined in Central Jail, Ambala. The complainant alleged that on 08.05.2019 while she was preparing her children to go to school, accused non-applicants Rakesh Pandhara, Sagar Lahoriya and Shyam along with the present petitioner Dhiraj, accompanied by two other addicts, came to the house of the complainant and demanded

Smack (type of an intoxicant narcotic). It is when the complainant told them that she was not in that trade, the accused started leveling insinuations against the complainant and thereafter a quarrel ensued and the accused gave abuses to the complainant and tore off her clothes. Subsequently, a settlement was arrived at between the two sides and it is alleged that thereafter the accused gave a cold-drink laced with some substance to the complainant, who drank it and was rushed to the hospital leading to registration of the present case on 09.05.2019.

Learned counsel for the petitioner Ms. Sukhpreet Kaur, Advocate inter alia contends that the petitioner is behind bars since a long time and that there is no evidence as to role of the petitioner in commission of the offence or to support the allegations of the prosecution regarding assault and drinking of cold-drink laced with indigestible article and that the petitioner has been falsely implicated.

On behalf of the State, Mr. Baljinder Singh Virk, learned Deputy Advocate General, Haryana on instructions from SI (Ms.) Balwinder Kaur, Police Station Women, Ambala City has sought to oppose the plea of the petitioner on the grounds that the petitioner has assaulted a woman, tore off her clothes and under the garb of a settlement, had made her drink some suspicious substance which led to her vomiting and therefore, in view of the offence, the petitioner is not entitled to any concession of bail.

Going through the submissions of the two sides, the petitioner is in custody since a long time. To the specific query of the

Court, learned State counsel could not show any document regarding the noxious nature of the substance so claimed to have been given to the complainant and even medical evidence does not substantiate to any extent these allegations. The petitioner is behind bars in this case and culpability, if any, shall be determined at the trial which is not likely to conclude in the near future. In view thereof, this Court is of the firm 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, Ambala. 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

August 20, 2019

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No