

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

CRM-M No.42334 of 2019

Date of decision: 14th October, 2019

Akash @ Akashdeep

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Raj K. Arya, Advocate for the petitioner.

Mr. Pawan Sharda, Sr. Dy. Advocate General, Punjab
for the respondent/State.

FATEH DEEP SINGH, J. (ORAL)

Allegations against the petitioner Akash alias Akashdeep in this first regular bail application under Section 439 Cr.P.C. in case bearing FIR No.107 dated 07.08.2019 under Section 376 IPC pertaining to Police Station Mukerian, District Hoshiarpur, have been levelled by a married lady aged around 27 years having two kids. It is alleged that on 21.05.2019 in the evening, the complainant had taken principal accused non-applicant Lovepreet Singh to Mukerian and where she was offered juice and upon drinking the same she became semi-conscious. It is further alleged that the accused took her on a motorcycle to an abandoned place and defiled her against her wishes and the present petitioner accused Akash alias Akashdeep prepared her obscene video.

Learned counsel for the petitioner Mr. Ram Kumar Arya, Advocate inter alia contends that the petitioner is behind bars for the last almost two-and-a-half months and that the prosecutrix is a grown up married lady and had volunteered into this relationship and has sought to create doubt over the very applicability of Section 376 IPC.

On behalf of the State, Mr. Pawan Sharda, Senior Dy. Advocate General, Punjab on instructions from SI Salvinder Singh does not displace the facts that have been canvassed before this Court, but has stoutly opposed the grant of bail on the grounds of heinousness of the offence.

Going through the arguments of the two sides, the prosecutrix admits that she is a grown up, mature, married lady with kids. As per her allegations, she has volunteered and gone late in the evening with the accused on his motorbike and having kept mum for a long period of time, which could not be displaced by the State by putting forth any reasonable excuses, are matters of much relevance. Thus, the very applicability of Section 376 IPC is a highly debatable. 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 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, Hoshiarpur.

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

October 14, 2019

rps

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