

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

CRM-M No.45223 of 2019
Date of decision: 2nd November, 2019

Deepak

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. N.S. Shekhawat, Advocate for the petitioner.
Mr. Amrik Narwal, Dy. Advocate General, Haryana
for the respondent/State.

FATEH DEEP SINGH, J.

Accused petitioner Deepak, who is in custody in case bearing FIR No.361 dated 12.07.2019 under Sections 323, 354, 376, 452, 511 IPC pertaining to Police Station Pehowa, District Kurukshetra, has come up before this Court in this first petition for regular bail under Section 439 Cr.P.C.

The allegations against the petitioner have been made by an unmarried girl aged around 25-26 years, an ex-university student. It is alleged that on 12.07.2019 while she was alone at home, accused petitioner was making obscene talks to her and thereafter, the accused petitioner along with his co-accused non-applicant Sanjay came to the house of the complainant in a car and tried to defile her and thereafter forced her into the car to which the victim raised alarm, leading to registration of the present case.

Learned counsel for the petitioner Mr. N.S. Shekhawat, Advocate inter alia contends that the complainant and co-accused Sanjay were in a relationship as both were major. It is claimed that on 09.07.2019, the victim had demanded ₹ 1.00 lakh from Sanjay and in pursuance of which on 12.07.2019 both the accused had come to Pehowa and while at juice bar of one Salim, were taken away by the police and thereafter the girl has tried to blackmail them and demanded ₹ 3.50 lakhs which she received and was caught red-handed on 22.07.2019 in the presence of Judicial Magistrate and an FIR too was got registered and that on 07.08.2019 in her supplementary statement the prosecutrix has levelled allegations that on 22.11.2016 accused Sanjay has raped her in a hotel and that there is no medical evidence to support the case of the complainant. The petitioner has placed reliance on photographs numbering seven (Annexure P2) to support his stand.

On behalf of the State, Mr. Amrik Narwal, Dy. Advocate General, Haryana on instructions from ASI Gurdev Singh, Police Station Pehowa, District Kurukshetra though has not disputed the facts put forth before this Court by learned counsel for the petitioner however has sought to oppose the grant of bail on the grounds of seriousness of allegations and that if allowed bail the petitioner might stifle the trial.

Going through the submissions of the two sides, the photographs placed on the record are reflective of the relationship the victim had with one of the accused. Learned State counsel fairly concedes

at the bar that there is no medical evidence to support the allegations of rape except the oral testimony of the girl. The statement of the girl dated 17.07.2019 recorded by learned Judicial Magistrate 1st Class, Pehowa nowhere states about the allegations of rape that is claimed to have happened on 22.11.2016 and has led to registration of the present case. Thus, in the light of the same, a debatable issue arises over the truthfulness of the prosecution version and which can only be adjudicated by means of evidence at the trial. Petitioner is behind bars since a long time. In view thereof and the fact that the trial is not likely to conclude in the near future, 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, Kurukshetra. 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

November 2, 2019

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No