

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-46515-2019 (O&M)
Date of Decision:-6.11.2019

Rajesh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Rahul Jaswal, Advocate for the petitioner.

Mr. Ashok Singh Choudhary, Addl. Advocate General, Haryana,
assisted by ASI Bijender.

GURVINDER SINGH GILL, J.(Oral)

1. This is the second petition filed on behalf of petitioner Rajesh seeking grant of regular bail in respect of a case registered vide FIR No.254 dated 13.3.2018 at Police Station Chandani Bagh, Panipat (Haryana) under Sections 328, 376 and 506 of Indian Penal Code, wherein offences under Sections 376-D and 343 IPC were added later on.
2. The FIR in question was lodged at the instance of victim, aged 23 years, wherein it has been alleged that she was known to the petitioner Rajesh since long and that on 5.3.2018 he took her along while holding out a promise to solemnize marriage. However, on the way he gave her a cold-drink, which contained some intoxicant and then took her to room of Sonu at Panipat where both of them raped her.

3. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that the falsity of the allegations would be evident from the fact that the FIR came to be lodged after about 8 days of the alleged occurrence. It has further been submitted that infact on 7.3.2018 the victim had submitted a complaint (Annexure P-3) to Chief Judicial Magistrate, District Legal Services Authority, Panipat, wherein she has not stated a word against the petitioner and has named Amit, Suraj and Dr. Tushar, who were alleged to have raped her in connivance with Neha. The learned counsel has further submitted that subsequently after presentation of challan, when the victim was examined by the Court, she has given an altogether different version inasmuch as she has stated that it was Sonu, who had taken her to Haridwar, where the petitioner was residing and that the petitioner as well as Sonu committed rape upon her. A prayer has thus been made for grant of bail.
4. Opposing the petition, the learned State counsel has submitted that since the earlier bail application filed by the petitioner was dismissed on merits on 29.5.2019 and the petitioner is specifically named in the FIR and is alleged to have raped the victim, no case for grant of bail is made out.
5. I have considered rival submissions addressed before this Court.
6. No doubt an earlier bail application filed on behalf of the petitionier was dismissed by a Coordinate Bench of this Court on 29.5.2019, but ever since dismissal of the said application, there has been a substantial change in circumstances inasmuch as when the earlier bail application was dismissed, report under Section 173 Cr.P.C. had not been filed, whereas as of now not only the challan stands presented but infact the prosecutrix has also been

examined. Further the veracity of the allegations is certainly required to be established given the fact there is slight inconsistency in various versions of the prosecutrix given at different stages. The petitioner, in any case, has been behind bars since the last more than 1 year and 7 months. Further detention of the petitioner, in these circumstances, will not serve any useful purpose as conclusion of trial is likely to take some time. The petition, as such, is accepted and it is ordered that the petitioner be released on bail subject to her furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

7. It is, however, made clear that none of the observations made above shall be construed to be an expression on merits of the main case.

6.11.2019

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No