

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

CRM-M No.50471 of 2019

Date of decision: 3rd December, 2019

Sham Sunder

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Ashish Gupta, Advocate for the petitioner.

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

FATEH DEEP SINGH, J. (ORAL)

Allegations against the petitioner Sham Sunder in this first regular bail application under Section 439 Cr.P.C. in case bearing FIR No.682 dated 28.08.2019 under Sections 376(2)(N), 506 IPC and Section 67A of the Information Technology Act, 2000 pertaining to Police Station City Panipat, District Panipat, have come about by a 35 years old married lady. In her complaint, she alleges that she came across the present petitioner on Facebook and thereafter they came in contact through mobile phone and about 3/4 months prior to registration of the present case which was on 28.08.2019, the prosecutrix met the accused at a public place and thereafter accused is alleged to have taken her to a hotel and raped her and prepared her video in the process. It is further alleged that thereafter the accused threatened her and on 12.08.2019 the

accused trespassed into the house of the complainant and again defiled her against her wishes, leading to registration of the present case and arrest of the petitioner on 29.08.2019.

Learned counsel for the petitioner Mr. Ashish Gupta, Advocate inter alia submits that the prosecutrix happens to be a married grown-up mature lady and was in a relationship over a period of time and has levelled false allegations when their relationship became public and that there is no medical evidence to corroborate the allegations of prosecution.

Learned State counsel Mr. Baljinder Singh Virk, Dy. Advocate General, Haryana on instructions from ASI Ramesh Chand, fairly concedes to the facts that have come about in the submissions of learned counsel for the petitioner, but has opposed the grant of bail on the grounds of heinousness of the offence.

Appreciating the arguments of the two sides, admittedly the prosecutrix happens to be a mature married lady aged around 35 years. There is no medical evidence to corroborate the allegations of rape which have come about on two different occasions with a yawning gap and thus, a debatable issue arises over the very applicability of offence of rape, which can only be adjudicated 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, Panipat.
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

December 3, 2019

rps

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