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

**CRM-M No.11153 of 2020
Date of Decision: 01.10.2020**

AJAY MALPetitioner
Vs
STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

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

Mr. Sandeep Singh Deol, D.A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.136 dated 03.08.2017, registered under Sections 376 and 354-C IPC at Police Station Sadar, Hoshiarpur.

The FIR was registered at the instance of Sandeep Kaur, who has alleged that she was subjected to rape by the petitioner and one more person in a room of Babu Restaurant against her wishes.

Learned counsel for the petitioner by referring to the

number of events contended that the prosecutrix is habitual in making false complaints against her relatives and petitioner. Learned counsel referred to the complaints ultimately culminated in a Panchayati compromise on 19.05.2016 and report regarding application No.1721-SSP dated 06.05.2016 which was filed by the Police after due inquiry on 30.05.2016.

As per prosecution case, the petitioner at the time of occurrence used preventive contraceptive and thereafter one more person committed the offence in the room itself. Petitioner was declared as a proclaimed offender vide order dated 29.09.2018. He surrendered only on 19.11.2019 i.e. after more than one year. Petitioner is in custody since 19.11.2019.

Vide order dated 24.09.2020 passed by this Court, the State counsel was directed to verify the factum of involving other persons by the prosecutrix in similar type of cases.

In pursuance of the said order, affidavit of Jagish Raj, PPS Deputy Superintendent of Police, Sub Division City, District Hoshiarpur has been filed. The same is taken on record.

Perusal of the status report would show that the petitioner has not been exonerated in any manner. Since the prosecutrix is a married lady, therefore, non-appearance of any mark of injury on her person in the facts and circumstances of

the case would be subject to nature of evidence to be brought by the parties on record at the relevant time.

Learned State counsel has opposed the prayer on the ground that the CCTV footage collected by the Police would be tested in terms of its authenticity. Medico-Legal and FSL reports would not advance the case of the petitioner as the prosecutrix is a married lady. The prosecutrix has re-affirmed the allegations against the petitioner in her statement.

After hearing learned counsel for the parties at this stage I am of the view that the allegations are serious in nature. The petitioner remained out of reach of the Court for more than one year. Even no indulgence was granted by the Hon'ble Apex Court in the bail matter as noticed by the Court of Sessions in the order dated 24.01.2020. History of cases submitted by the Police has not absolved the petitioner of his complicity at this stage.

Looking to the allegations and the stage of the case, I do not wish to grant indulgence in favour of the petitioner. The present petition is dismissed at this stage.

(RAJ MOHAN SINGH)
JUDGE

October 01, 2020

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No