

CRM-M No.25511 of 2020 (O&M)
Date of Decision : 04.09.2020

Kulwant

...Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGHPresent : Mr. Jarnail S. Saneta, Advocate
for the petitioner.

Mr. B.S. Virk, DAG, Haryana.

FATEH DEEP SINGH, J (ORAL)

The petitioner-Kulwant has sought first regular bail under Section 439 Cr.P.C in case FIR No.19, dated 12.01.2020, under Section 376 IPC, 1860 registered at Police Station Ladwa, District Kurukshetra, Haryana.

The brief allegations against the petitioner are that prosecutrix is a married lady with two kids, alleged that on 02nd January, 2020, she had an altercation with her husband and, thereafter, she requested the accused-petitioner Kulwant, her neighbor to drop her in his Tempo. It is during this period the allegations have come about that Kulwant Singh took the prosecutrix to a room and defiled her against her wishes leading to registration of the present case.

Learned counsel for the petitioner *inter alia* contends that the petitioner is a grown up married person and so the prosecutrix, who are neighbours and were in a relationship and had eloped on their own for a number of days. It is contended by learned counsel for the petitioner that there is no medical evidence to corroborate the allegations of rape.

Learned State counsel has strongly opposed the bail on the grounds of seriousness of offence and the fact that a subsequent case has been got registered against the petitioner for abetment to suicide by the husband of the complainant.

Admittedly, both the prosecutrix and the accused are married grown up persons with kids. As per the own stand of the prosecutrix, she had volunteered to go with the petitioner and stayed with him for a number of days together with absence of any medical evidence to corroborate the allegations of rape. Thus, a debatable issue arises over the applicability of the offence under Section 376 IPC, which issue can only be adjudicated at the time of the trial.

Keeping in view the prevalent pandemic Covid-19 and the circumstances detailed hereinabove, there is every likelihood that the trial is not likely to be concluded in the near future, without feeling the necessity to advert to the merits of the case, no useful purpose would be served by keeping the petitioner in

custody. Accordingly, the instant petition for regular bail is allowed. The petitioner-Kulwant is ordered to be released on regular bail to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, concerned.

The present petition stands disposed off accordingly.

The observations made hereinabove shall have no bearing on the merits of the case as these are purely for the disposal of the present bail application.

(FATEH DEEP SINGH)
JUDGE

04.09.2020
Manpreet

Whether speaking/reasoned	Yes
Whether reportable	No