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

**CRM-M No.26673 of 2020 (O&M)
Date of Decision: 24.09.2020**

**DHULIA @ AJAY Petitioner
Vs
STATE OF HARYANA Respondent**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Munish Kumar Garg, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, D.A.G., Haryana.

Mr. Aman Garg, Advocate
for the complainant.

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.453 dated 19.09.2019, registered under Sections 376, 450 and 506 IPC at Police Station Safidon, District Jind.

In respect of occurrence dated 12.08.2019, the FIR came to be registered only on 19.09.2019. As per allegations, the accused came in the courtyard of the prosecutrix through stairs and after gagging her mouth committed wrong act with

her. Husband of the prosecutrix was away. She did not tell anyone about the incident due to fear. After arrival of her husband, she narrated the incident to him. The prosecutrix was medico-legally examined on 19.09.2019. Since the occurrence took place about one month prior to the medical examination, therefore, it was observed by the Doctor that there is no relevance of taking sample, however in the opinion it was observed that possibility of sexual intercourse cannot be ruled out.

In the disclosure statement of the petitioner before the police on 30.09.2019, he has admitted his guilt. In the statement recorded under Section 164 Cr.P.C., the prosecutrix has also implicated the petitioner, however thereafter she has given her affidavit on 10.09.2019 to the effect that the occurrence had never taken place, rather the same is outburst of some pressure at the instance of her in-laws. Infact, one day prior to the alleged occurrence i.e. on 11.08.2019, the prosecutrix had gone to her native village by taking the help of the petitioner. Petitioner dropped her and the in-laws brought her accordingly. In-laws of the prosecutrix started saying that their reputation has been maligned due to such unwarranted act.

Prosecutrix has been represented by Mr. Aman Garg, Advocate, who stated that now the prosecutrix does not wish to

prosecute the case against the petitioner.

Learned State counsel could not dispute the factual matrix of the case except to allege that the prosecutrix in her statement under Section 164 Cr.P.C. has implicated the petitioner.

At this stage, this Court cannot appreciate the factum of affidavit submitted by the prosecutrix on 10.09.2020. Charges have been framed, but no prosecution witness has been examined so far. Petitioner is in custody since 30.09.2019.

Looking to the aforesaid facts and in view of the situation arising out due to COVID-19 pandemic and without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

September 24, 2020
Atik

(RAJ MOHAN SINGH)
JUDGE