

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

CRM-M No.31095 of 2019

Date of decision: 13th February, 2020

Tinku

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Krishan M. Vohra, Advocate for the petitioner.

Mr. Deepak Manchanda, Addl. Advocate General, Haryana
for the respondent/State.

FATEH DEEP SINGH, J.

Petitioner Tinku has sought regular bail by way of this second application under Section 439 Cr.P.C. (the first one having been dismissed by this Court vide orders dated 29.01.2019) in case bearing FIR No.436 dated 16.07.2018 under Sections 323, 34, 342, 354, 354-B, 376, 506, 511, 316 IPC pertaining to Police Station Smalkha, District Panipat.

Heard Mr. Krishan M. Vohra, Advocate for the petitioner; Mr. Deepak Manchanda, Addl. Advocate General, Haryana for the respondent/State and perused the records.

The brief allegations are that two sisters namely Mausam and Sonam were married to two real brothers namely Tinku (present

petitioner) and Amit (non applicant). It was during the course of their matrimony a dispute arose between Tinku and his wife after two years of their marriage. The allegations against the petitioner are that he had physically assaulted Sonam and tried to outrage her modesty and so his co-accused non-applicant Amit, his brother, who attacked Mausam and the latter, on account of physical assault aborted leading to registration of the present case and arrest of the petitioner on 30.07.2018.

Learned counsel for the petitioner inter alia contends that earlier on account of wrong medical advice and the stand of the State before the Court, bail application of the petitioner was declined and subsequently this Court vide order dated 29.05.2019 had allowed regular bail application of co-accused non-applicant Amit and that there is no medical evidence to support this stand of the State and that the petitioner is behind bars for more than one year and six months.

On behalf of the State, Mr. Deepak Manchanda, Addl. Advocate General, Haryana on instructions from SI Ramesh, Police Station Samalkha though has not displaced the facts but has stoutly and strongly opposed the grant of bail on the grounds that if allowed bail the petitioner might influence the trial.

Going through the submissions of the two sides, admittedly co-accused non-applicant Amit has been allowed regular bail by this Court. It was subsequent to the order dated 29.01.2019 dismissing the

first bail application of the petitioner Tinku and at the time of decision of bail application of co-accused non-applicant Amit, it had come across as per the stand of the State that there was no medical evidence to show that the alleged abortion was on account of any physical injury and rather it was on account of medical complications. Thus, even today the learned State counsel has stuck to this stand that it was a medical complication on account of which abortion has taken place, and therefore is illustrative that the previous stand of the State was based on unfounded medical reasons. The petitioner is behind bars since 30.07.2018 and his co-accused Amit has been allowed regular bail. 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

February 13, 2020

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No