

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 206

Criminal Appeal No.S-1556 of 2023
Date of Decision: June 01, 2023

Salinder @ Surinder @ Sukha

..... APPELLANT(S)

VERSUS

State of Haryana

..... RESPONDENT(S)

...

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

...

PRESENT: - Mr. Raghav Sharma, Advocate for the appellant.

Ms. Ankita Ahuja, AAG, Haryana.

. . .

Tribhuvan Dahiya, J (Oral)

This is an appeal for setting aside the order dated 01.04.2023 passed by Additional Sessions Judge, Special Court, Kurukshetra, whereby regular bail application of the appellant in case FIR No.0680 dated 25.12.2021, registered under Section 346 (Sections 328, 376, 366 IPC and Sections 3(2)(v) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 added later on) at Police Station Kurukshetra University, Kurukshetra, has been dismissed.

2. Briefly, allegations as per the FIR, lodged on a statement by the victim's husband, are that he was married to the victim in 2007, and two children were born out of the wedlock. On 24.12.2021, all the family members went in a prayer meeting at Barara. Finding the opportunity, his wife fled from home and took all the jewellery and ₹ 1 lakh cash also. She could not be found despite having been searched at different places.

3. The victim was later on recovered from a bus stand in a different city, Kaithal, on 29.12.2021. Her statement under Section 164 Cr.P.C. was recorded on next day wherein she alleged that she was taken away by the appellant, his paternal aunt and cousin/Ramlu on 24.12.2021 and made to drink tea laced with a sedative. She became unconscious and was raped by the appellant and his cousin.

4. Learned counsel for the appellant contends that the victim is a mature lady having two children. Her relationship with the appellant was consensual. She willingly came to him finding an opportunity while her husband was away, as has been mentioned in the FIR itself. The allegations are false and have been levelled under duress only to save her from embarrassment. Besides, similar allegations against the co-accused were found false by the investigating agency.

5. Learned State counsel, on instructions from Inspector Devender Kumar, opposes the grant of bail on the ground that eighteen prosecution witnesses are still to be examined, as only examination-in-chief of the complainant has been recorded so far. She could not be cross-examined since an application under Section 319 Cr.P.C. was moved on her behalf which is pending adjudication. She further submits that DNA report in the case has been received, it has not matched with the appellant's profile. The appellant is in custody since 06.06.2022, and no other case is pending against him.

6. The submissions made by learned counsel for the parties have been considered.

7. There are different versions about the alleged incident. Trial of the case will take some time to conclude as eighteen prosecution

witnesses still remain to be examined. Decision on the application to summon additional accused under Section 319 Cr.P.C. is also awaited; the trial will proceed only thereafter. Investigation of the case is over, and no useful purpose will be served by confining the appellant to custody any longer, who has no criminal antecedents.

8. Accordingly, the appeal is allowed and the appellant is ordered to be released on bail to the satisfaction of trial Court/Duty Magistrate concerned.

(Tribhuvan Dahiya)
Judge

June 01, 2023
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<u>Whether Speaking/ Reasoned:</u>	<u>Yes/ No</u>
<u>Whether Reportable:</u>	<u>Yes/ No</u>