

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

CRM-M No. 2971 of 2017(O&M)

Date of decision: 31.1.2017

Ajay

....Petitioner

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Bijender Dhankhar, Advocate for the petitioner.

REKHA MITTAL, J.(Oral)

The petitioner prays for grant of bail in anticipation of arrest in FIR No.9 dated 20.01.2017 registered at Women Police Station Palwal, District Palwal for offence punishable under Sections 376, 506, 120-B of the Indian Penal Code, 1860 (in short 'IPC').

Counsel for the petitioner has submitted that as per allegations put-forth in the FIR, the prosecutrix and the accused were stated to be class-mates in Advance College for the year 2012-13 and developed intimacy. The accused allegedly developed physical relationship with the prosecutrix since 2014 on the pretext of marriage. It is further submitted that the last incident of sexual assault is stated to have taken place on 04.01.2017 but the FIR has been lodged after a delay of more than 15 days from the said incident. The last submission made by counsel is that as marriage of the petitioner has been fixed for 05.01.2017, the complainant has come forward to lodge the FIR in order to restrain the petitioner from performing his marriage and cause harassment and humiliation. In addition, it is submitted that the prosecutrix has alleged that the petitioner has taken her obscene photographs in a mobile phone but no such photographs are there in his mobile phone and the said factum can be

ascertained during investigation. In support of his contentions, he has relied upon judgment of Hon'ble the Supreme Court **Deepak Gulati vs. State of Haryana, 2013(3) RCR (Criminal) 96.**

I have heard counsel for the petitioner, perused the paper-book particularly the allegations raised in the FIR.

The judgment in **Deepak Gulati's case** (supra) has got no bearing in view of its peculiar facts as in the said case the prosecutrix eloped with the accused but unfortunately marriage could not be solemnized since accused was arrested on complaint of father of the prosecutrix. It was held that accused can be convicted for rape only if the court reaches a conclusion that the intention of the accused was mala fide, and that he had clandestine motives.

It has been categorically alleged by the prosecutrix that the petitioner developed physical relationship with her on the pretext of marriage but now refused to perform marriage despite his last sexual assault on 04.01.2017. Taking into consideration the gravity of allegations when examined in the light of judgment of Hon'ble the Supreme Court **State of U.P. Vs. Naushad, 2014(1) RCR (Criminal) 173**, I do not think it to be a fit case wherein the petitioner deserves to be allowed benefit of pre-arrest bail, a concession to be allowed by the Court in case the Court comes to a conclusion that a false case has been registered with an intent of maligning somebody or due to political vendetta.

Dismissed.

JANUARY 31, 2017

'D. Gulati'

**(REKHA MITTAL)
JUDGE**

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no