

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

**Criminal Misc. No. M-48037 of 2017
Date of Decision:-21.12.2017**

Jogender

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present:- Mr. Ravinder Singh Saroha, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

FATEH DEEP SINGH J.(Oral)

The allegations against the petitioner Jogender in the present regular bail application under Section 439 Cr.P.C. in case FIR No.288 dated 27.5.2017, under Sections 376 and 506 IPC, registered at Police Station Ganaur, District Sonapat, are that the complainant Anita Gadariya who is a widow, having two children, met the petitioner while staying in Delhi and it is alleged that on assurance of petitioner she succumbed to his manly desires on the promise and pretext that petitioner would marry her but subsequently backed out leading to registration of the present case and arrest of the petitioner on 30.8.2017.

The contentions of learned counsel for the petitioner are that the petitioner is 35 years old man whereas the prosecutrix is 40 years,

intelligent and having two grown up children and resided with the petitioner for the last more than five years and thus, question of rape is not made out and at the most it is only breaking of a contract as the lady has voluntarily on her own sweet will surrendered herself before the petitioner.

Learned State counsel has opposed the grant of bail to the petitioner on the ground that petitioner having duped the lady on the pretext of marrying and therefore is not entitled for bail.

After going through the arguments of two sides, the prosecutrix is a grown up widow lady, residing from 5 years in Delhi with her two grown up children and had been admittedly in a relationship with the petitioner for the last more than five years. Keeping in view the period of incarceration of the petitioner and the fact that culpability, if any, shall be determined at the time of trial together with the fact that the trial is not likely to accomplish in near future, the present petition is allowed. Accordingly, the petitioner is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Sonapat.

The petition stands disposed off accordingly.

December 21, 2017
Vijay Asija

(FATEH DEEP SINGH)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No