IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-17766-2018(O&M)
Date of decision:- 25.7.2018

Shubham @ Ishu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.R.V.S. Chugh, Advocate
for the petitioner.

Mr.Dhruv Dayal, Sr.DAG, Punjab.

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H.S. MADAAN, J.

The instant petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner - Shubham @ Ishu, an accused in FIR No.45 dated 9.3.2018, under Sections 363, 366-A IPC and further added Sections 376 IPC and 4 of POCSO Act, registered at Police Station City, Hoshiarpur.

The FIR in this case was registered on the basis of statement of complainant Seema Joshi wife of Satish Joshi, resident of Goran Gate, Jattan Mohalla, Ward No.22, Police Station City Hoshiarpur, aged about 40 years, which she made to police on 9.3.2018, inter alia, contending that she is a household lady; that her husband, who was running a bakery shop has not been keeping good health; that the couple has three children, a son

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namely Sahil, daughter Kritika and another daughter (daughter name not being mentioned to conceal her identity and referred to as '*the victim*') aged about 16 years, who was studying in 10th class in SD Girls School, Old Wheat Market, Hoshiarpur; that on 8.3.2018, the victim left the house for purchasing some articles from the market but did not return home and when she could not be located, the matter was reported to the police. In her statement, the complainant stated that she was of the firm view that the victim had been allured by Shubham @ Ishu son of Avinash, resident of Bahadurpur, Police Station City, Hoshiarpur taking her along with him in a car on the pretext of marriage. After registration of the FIR on 9.3.2018, residential house of accused Shubham @ Ishu was raided by the police but the house was found to be locked. On 11.3.2018, complainant Seema Joshi got her supplementary statement recorded to the effect that on the said day her elder daughter received a telephonic call from the victim to the effect that she was standing near Aman Hospital, DC Road, Hoshiarpur and accordingly the complainant along with her daughter went to Aman Hospital and brought back the victim, who informed that on 8.3.2018 at about 7:45 p.m., Shubham @ Ishu had given her allurement and taken her along with him in his car bearing registration No.PB08AB-0376 Honda City; that after roaming around for some time, Shubham @ Ishu took the victim to Bassi Gulam Hussain Choe and parked his car in the bushes; that the time was about 10:00 p.m. and thereafter Shubham @ Ishu had forcibly sex with the victim, thereafter both of them spent night in the car; that on the next day Shubham @ Ishu drove the car to various places and at night took victim to bushes in the area of Bassi Gulam

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Hussain Choe and raped her there; that he had dropped the victim near Aman Hospital, DC Road, Hoshiarpur and himself went away; the victim kept on waiting for him but he did not turn up. The statement of the victim was also recorded by the police. Her statement under Section 164 Cr.P.C. was also got recorded by a Magistrate. The victim reiterated the version given by her to the police in her statement under Section 161 Cr.P.C. further stating that accused is husband of her friend and earlier also he used to ask the victim to marry him.

On registration of formal FIR, apprehending his arrest in this case, the petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, however, his such request was declined by learned Additional Sessions Judge, Hoshiarpur vide order dated 19.4.2018. As such, the petitioner has approached this Court asking for similar relief.

Notice of the petition was given to respondent – State, which has appeared through State counsel.

I have heard learned counsel for the parties besides going through the record.

The allegations against the petitioner are very grave and serious of enticing a minor girl and then having sexual intercourse with her repeatedly.

Custodial interrogation of the petitioner is definitely required for complete and effective investigation to find out as to how and under what circumstances he had planned the incident and executed it. In case custodial interrogation of the petitioner is denied to the investigating

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agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely which is not called for.

Thus finding no merit in the petition, the same stands dismissed.

25.7.2018 **(H.S.MADAAN)**
Brij **JUDGE**

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No

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