

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

CRM-M No.22436 of 2018

Date of decision: 17th November, 2018

Deepak Kumar @ Deep

... Petitioner

Versus

UT Chandigarh

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Ranjivan Singh and Ms. Deepika, Advocates
for the petitioner.

Mr. Gautam Dutt, Addl. PP, UT Chandigarh
for the respondent/UT.

Mr. Abhishek Sharma, Advocate for the complainant.

FATEH DEEP SINGH, J. (ORAL)

Allegations against the accused petitioner Deepak Kumar @ Deep in this first anticipatory bail application under Section 438 Cr.P.C. in case bearing FIR No.0133 dated 06.04.2018 under Sections 376(2)(n), 420 IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 pertaining to Police Station South, Sector 34, Chandigarh are that the present case was got registered on the statement of the prosecutrix, now aged around 20 years, wherein she alleged that while she was aged around 15 years, she came into contact with the accused petitioner and thereafter, remained in relationship whereby she has succumbed to the physical needs of the accused throughout this

period till registration of the present case on 06.04.2018 and that thereafter the accused has married someone else.

On behalf of the petitioner, Mr. Ranjivan Singh, Advocate submits that the FIR has been lodged after almost five years of the alleged occurrence and there is no medical evidence to support the allegations of the prosecutrix and that at this stage nothing is to be recovered from the petitioner.

Though on behalf of the UT, the same is sought to be opposed by Mr. Gautam Dutt, learned Additional Public Prosecutor on instructions from SI Vijay Kumar, Police Station Sector 34, Chandigarh assisted by Mr. Abhishek Sharma, Advocate representing the complainant on the grounds that at the time of occurrence the prosecutrix was a minor and in view of the heinousness of the offence and seriousness of allegations disentitles the petitioner to any relief.

Going through the submissions, there is an inordinate delay of five years between the alleged occurrence and registration of the case, together with the fact that at the time of registration of the case, the prosecutrix happens to be aged around 20 years and there is, as per the own stand of the State, no medical evidence to support her allegations and even at the time of her medical examination and after registration of the case, she claims that she was lastly in the physical relationship one year prior thereto. Culpability, if any, shall be determined at the trial and

it would be a travesty of justice to send the petitioner behind bars in the present case.

In view of what has been stated above and in the light of orders passed earlier, the interim bail granted to the petitioner vide order dated 24.05.2018 is made absolute on the same terms and conditions till submission of report under Section 173 Cr.P.C. (challan). Thereafter, petitioner will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

The petition stands disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

November 17, 2018

rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No