

CRM-M-45086-2018

Date of Decision : 15.12.2018

Md. Miraj Alam Ansari

.....Petitioner

versus

State of Haryana and another

....Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH**Present:** Mr. M.K. Srivastwa, Advocate
for the petitioner.Mr. Baljinder Singh Virk, DAG, Haryana
for respondent No.1-State.**FATEH DEEP SINGH, J. (ORAL)**

This order shall dispose off first regular bail application under Section 439 Cr.P.C of accused/petitioner-Md. Miraj Alam Ansari in a case bearing FIR No.48 dated 09.08.2018 filed under Sections 323, 376 and 506 of the Indian Penal Code and Section 3 of the SC/ST Act, 1989 registered at Police Station Women Cell, NIT Faridabad District Faridabad.

The brief allegations brought to the notice of this Court by the two sides are that the complainant is unmarried lady aged around 35 years and in her complaint, she alleges that she was in a relationship with the petitioner since the year 2010 onwards. Though the petitioner was subsequently married on 31.12.2015 but when he refused to continue with the relationship and get married with the prosecutrix, the present case was got registered on 09.08.2018 and leading to his arrest on 12.08.2018.

Learned counsel for the petitioner contends that it was consensual relationship between the two grown-up persons of adequate maturity and understanding and thus, the very element of allegations of rape do not bear as it is admitted relationship over a long period of time.

The learned State counsel, assisted by ASI Mukesh Kumar, Police Station Women Cell, Faridabad has sought to oppose the grant of bail on the ground of seriousness of the allegations and offences together with the fact that petitioner has committed deceit with the prosecutrix.

Going through the submissions, it is own stand of the prosecution that they carried on with this relationship since 2010 and thus, apparently till the filing of the FIR, they were in physical relationship which itself is suggestive of consensus between the two thus, a debatable issue has arisen over the element of allegation of rape.

Appreciating the submissions, admittedly the petitioner is behind bars since more than four months. Thus, culpability, if any, shall be determined at the trial, this Court is of the opinion that no useful purpose would be served by further detaining the petitioner in custody. Accordingly, he is ordered to be released on regular bail to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate/Illaq Magistrate of the Court concerned.

The petition stands disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

15.12.2018
Neha

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No