

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

CRM-M No.46818 of 2018

Date of decision: 4th December, 2018

Paramjit Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. SPS Sidhu, Advocate for the petitioner.

Mr. Saurabh Khurana, Dy. Advocate General, Punjab
for the respondent/State.

Mr. Fatehjeet Singh, Advocate for the complainant.

FATEH DEEP SINGH, J.

This order shall dispose off first anticipatory bail application under Section 438 Cr.P.C. of accused petitioner Paramjit Singh in case bearing FIR No.54 dated 26.08.2018 under Sections 376-D, 506, 115 IPC pertaining to Police Station Amir Khas, District Fazilka.

The brief allegations that have been brought to the notice of this Court are that the present case has been got registered by an unmarried girl aged around 18½ years alleging that the accused petitioner used to visit their house and on 07.08.2018 around 7:00 p.m. came to the house of the prosecutrix while she was alone and asked her to accompany him but the prosecutrix refused. Thereafter, it is alleged that the accused took her to the fields and then to a tubewell room and in spite of resistance by the prosecutrix, the accused by putting his hands on her

mouth ravaged her and threatened that if she talks to somebody she will be murdered. Again on 16.08.2018, it is alleged that the accused present petitioner along with his co-accused non-applicant Puran Chand took her to the tubewell room of Puran Chand on a motorcycle and committed rape upon her turn by turn. It is alleged that the present petitioner had promised to keep her independently in a room but he went back from his promise and thereafter the present case was got registered on 26.08.2018.

Learned counsel for the petitioner Mr. S.P.S. Sidhu, Advocate at the very onset of submissions has argued that it was a case of false implication, as prior to the alleged occurrence on 20.06.2018 a dispute had arisen between the prosecutrix and the family of the petitioner over a quarrel amongst themselves which was sorted out by the respectables, and has sought to place reliance on (Annexure P2), arguing that the very plausibility of the story of repeated rapes cannot be accepted on the face of it.

On behalf of the State, Mr. Saurabh Khurana, Dy. Advocate General, Punjab assisted by Mr. Fatehjeet Singh, Advocate representing the complainant, has opposed the grant of bail on the grounds that the prosecutrix has been repeatedly raped by the accused and that if allowed bail the petitioner would influence the investigations and stifle the trial and in view of heinousness of the offence disentitles him to any relief.

Appreciating the arguments of the two sides, as per the own stand of the prosecutrix she is major and has been ravaged on 07.08.2018

and 16.08.2018 and to the specific query of the Court, learned State counsel nor that of the complainant could convince what steps were got initiated after these two alleged occurrences. Furthermore, the own document of the complainant shows that on 18.06.2018 a complaint is alleged to have been made by the present prosecutrix over the objections raised by the family of the present petitioner of illicit relations between the petitioner and the prosecutrix. More so, on 20.06.2018 as the compromise (Annexure P2) shows some dispute had occurred between the two sides regarding an incident of assault between the prosecutrix and the family members of the petitioner together with the fact that learned State counsel concedes that there is nothing suggestive from the medical evidence of these allegations of rape. Thus, a debatable issue crops up over the very veracity and truthfulness of the allegations and which can only be adjudicated at the time of trial. The alleged incidents have occurred on 07.08.2018 and 16.08.2018 and the FIR has been lodged on 26.08.2018 after the compromise (Annexure P2), leaves much to doubt. Sending the petitioner behind bars would be travesty of justice.

Accordingly, in the event of arrest, petitioner is ordered to be released on bail to the satisfaction of the Arresting Officer till submission of report under Section 173 Cr.P.C. (challan). He shall continue to join investigation and shall furnish an undertaking that he shall abide by the conditions specified under Section 438 (2) Cr.P.C. 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

December 4, 2018

rps

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