

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-47055 of 2018 (O&M)
Date of decision : November 29, 2018

Ashwani Kumar Sachdeva

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. HS Bhullar, Advocate, for the petitioner
Mr. Dhruv Dayal, Sr. DAG, Punjab for the State
Mr. Jashandeep Sandhu, Advocate, for the complainant

Fateh Deep Singh, J. (Oral)

The allegations in this first anticipatory bail application under Section 438 Cr.P.C. of accused-petitioner Ashwani Kumar Sachdeva filed in case FIR No. 220 dated 27.9.2018, under Sections 376, 506 IPC, Police Station City Faridkot have been levelled by the prosecutrix complainant an unmarried girl aged around 27 years. In her allegations, the complainant alleged that she was working at a Show Room of Samsung company and the petitioner being a customer had purchased one mobile phone and introduced himself aged around 51 years with two daughters and secured the mobile number of the complainant claiming that she was just like his third

daughter. During the course of time, the petitioner and the complainant communicated on the mobiles as well as on the internet and thereafter on 31.8.2018 around 11.00 AM the accused asked the complainant to come over to his house so that he would be able to get her into a government service. It is alleged that the petitioner on this pretext called the prosecutrix to his residence when he was alone and on a pretext took her to another room and ravished her against her wishes. Thereafter the petitioner threatened the complainant that he has prepared her video and if she would disclose to anyone, the same would go viral, leading to the registration of the present case upon due investigations on 27.9.2018.

Mr. HS Bhullar, learned counsel for the petitioner had laid three pronged attack on the prosecution arguing that a bare perusal of the FIR does not reflect commission of any offence under the definition of Section 375 IPC punishable under Section 376 IPC and that the petitioner is aged around 51 years and is suffers from Bipolar disorder for the last seven years and has taken refuge to Annexure P/3. It is further argued that it is highly unpalusible for an aged person to rape a young grown up girl against her wishes especially when the medico legal examination does not reflect so.

Mr. Dhruv Dayal, Sr. DAG, Punjab assisted by ASI Iqbal Chand has opposed the grant of bail on the grounds that the petitioner a grown up person with two daughters had woven a net around a poor unmarried girl and by deception on the pretext of providing a government

job had ravished her and thereafter threatened to upload her video on net being a heinous offence, the custodial interrogation of the petitioner is very much essential.

Appreciating the submissions of the two sides though the translated version of the FIR is not a true depiction of the vernacular FIR but a close reading of the same picturised the manner in which the prosecutrix has been duped and ravished that too by a grown up person with two own daughters of marriageable age. The medico legal examination which has been conducted the same very day as the occurrence, the fact that the matter has been duly investigated by the SIT before the registration of the FIR are matters which reflected and ruled out the allegations levelled by the petitioner that he has been falsely implicated. The call details placed on the record are stark evidence of the relationship during this period of time. The petitioner's custodial interrogation is very much essential for the recovery of the video clip together with the seriousness of the allegations and heinousness of the offence and the fact that provisions of Section 438 Cr.P.C. are to be sparingly used, no ground for grant of anticipatory bail is made out. The present petition stands dismissed.

November 29, 2018

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**(Fateh Deep Singh)
Judge**

Whether speaking/reasoned ?

Yes/No

Whether Reportable ?

Yes/No