

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

CRM M-48574 of 2018

Date of Decision: December 1, 2018

Rajat	Versus	Petitioner
State of Haryana		 Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Jatinder Dhanda, Advocate
for the petitioner.

Mr. Baljinder Singh Virk, DAG, Haryana.

Mr. Suridner Soni, Advocate
for the complainant.

FATEH DEEP SINGH, J. (Oral)

This order shall dispose of first anticipatory bail application filed under Section 438 Cr.P.C. of accused/petitioner Rajat in case FIR No. 874 dated 28.8.2018 under Sections 376, 506, 354-B read with Section 34 IPC registered at Police Station Sadar Hisar on the statement of Parveen Kumar, the uncle of the girl, who in his application has levelled allegations that his niece aged 19 years went missing on 27.08.2018 and, subsequently, had tried to claim that she has taken away cash as well as ornaments alongwith one Ajay Sharma. Consequent upon registration of this FIR, the girl was got recovered on 30.8.2018. On 30.08.2018, the girl had made her statement under Section 164 Cr.P.C., before learned JMIC Hisar, where she has implicated others

barring the petitioner and in another statement subsequently recorded on 11.09.2018, she has levelled insinuations against the present petitioner as well.

Mr. Jatinder Dhanda, learned counsel for the petitioner has sought to lay emphasis on the fact that it is the own stand of the complainant side that the girl at the time of occurrence was 19 years of age and thus, major by all means. Further, it is argued that allegations against the petitioner did not figure in the FIR/statement of the complainant made to the police and that there is no marks of fresh injury on the genitals of the girl during the medico-legal examination and that her repeated change of stances during the investigation are suggestive as to the fact that she has not named the actual culprit and her veracity appears to be doubtful. Learned counsel for the petitioner has also placed reliance upon a decision of Hon'ble Delhi High Court in Crl. Reference No.2/2016, titled as **Court on its own motion Vs. State** decided on 04.08.2018

Mr. Virk, learned State counsel assisted by Mr. Surinder Soni, Advocate for the complainant has sought to lay much emphasis on the fact that the petitioner has committed heinous offence and, thus, was not entitled to any bail by arguing that there is no legal bar to record the multiple statements of the prosecutrix under Section 164 Cr.P.C. though he acceded to the fact that during his interim bail so initially granted by the learned Additional Sessions Judge, the petitioner has joined the investigation.

Appreciating the submissions of the two sides, the petitioner admittedly is not named in the FIR nor any overt act has been attributed to him and the changing stances of the prosecutrix throughout the investigation in her two statements made under Section 164 Cr.P.C. are suggestive of a creeping doubt that comes to the mind of the Court as to the truthfulness of the version put forth by the prosecution. The medical evidence does not support the investigation.

In the light of what has been detailed and discussed above, this Court is of the view that it would be travesty of justice, if the petitioner is sent behind the bars in the present case, therefore, in the event of arrest, the petitioner be released on *interim* bail to the satisfaction of Arresting/Investigating Officer. The petitioner shall, however, join the investigation as and when called for to do so and he shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

Disposed off.

December 1, 2018
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No