

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-49371 of 2018 (O&M)
Date of decision : November 16, 2018

Gitesh

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Gurbachan Singh Bhatia, Advocate, for the petitioner

Mr. Munish Sharma, AAG, Haryana for the State

Fateh Deep Singh, J. (Oral)

The allegations against petitioner Gitesh in this regular bail application under Section 439 Cr.P.C. in case FIR No. 26 dated 9.6.2018 registered under Sections 323, 376, 377, 313 & 34 IPC, Police Station Women, Panchkula, have been levelled by a married woman with two kids that in the course of events she came across the petitioner on 18.6.2017 and since then was in a relationship with the petitioner till the registration of the present case on 9.6.2018. It is alleged that the petitioner on the pretext of getting married with the prosecutrix had managed to have physical relations with her leading to the registration of the case and arrest of the petitioner on

10.6.2018.

Mr. Bhatia, counsel for the petitioner inter-alia contended that the prosecutrix is a grown up lady with two kids and husband and admittedly as per her own allegations to be in relationship with the petitioner and thus, the very improbability of her claim that the petitioner has promised to marry her does not sustain and investigation and trial are not likely to be completed in the near future.

On behalf of the State assisted by ASI Reeta, Police Station Woman, Panchkula strongly opposed the grant of bail on the ground of heinousness of crime and seriousness of allegations and that the petitioner has been instrumental in duping the poor lady and thus, dis-entitles to any relief.

Appreciating the submissions of the two sides, admittedly the prosecutrix is a grown up married woman with two kids. As per her own stand she remained in this relationship for more than one and a half years and had been carrying on physical relations with the petitioner. Thus, a debatable issue having arisen over the very applicability of Section 376 IPC and whether it was a consensual one are matters of evidence. Keeping the petitioner in custody would be traversity of justice as he has already been behind the bars for more than five months. Investigation and trial are not likely to be concluded in near future. Accordingly, he is ordered to be released on regular bail to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Panchkula.

The observations made herein above shall not be binding on the trial court at the time of trial as these are purely for the disposal of the present bail application.

November 16, 2018

(Fateh Deep Singh)
Judge

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<i>Whether speaking/reasoned ?</i>	<i>Yes/No</i>
<i>Whether Reportable ?</i>	<i>Yes/No</i>