

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-50185 of 2018 (O&M)
Date of decision : December 14, 2018

Gurcharan Singh

....Petitioner

versus

State of Punjab and another

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Buta Singh Bairagi, Advocate, for the petitioner
Mr. Dhruv Dayal, Sr. DAG, Punjab for the State
assisted by HC Sukhdev Singh, PS Dharamkot, Moga
Mr. LS Sidhu, Advocate, for the complainant

Fateh Deep Singh, J. (Oral)

CRM-43911-2018

For the reasons mentioned in the application, the same is allowed. Documents attached with the application are taken on record. CRM stands disposed of.

CRM-M-50185-2018

Petitioner Gurcharan Singh has moved this application seeking grant of anticipatory bail under Section 438 Cr.P.C. filed in case bearing FIR No. 170 dated 18.10.2018, under Sections 376, 506 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012, Police Station Dharmkot, District Moga.

The facts that have emerged are that the present case was got registered by a minor girl aged around 16½ years wherein she alleged that on 17.10.2018 about 8.30 AM while she was going to school on a bicycle and near the bus stand the petitioner followed her on a motorcycle and after stopping the prosecutrix forced her to accompany him to which she refused and thereafter it is alleged that the accused snatched her bicycle and forced her to sit on his motorcycle and took her to a house where she was ravished and thereafter threatened her that in case she lodged any complaint he will put her photos on website leading to the registration of the present case.

Mr. Buta Singh Bairagi, learned counsel for the petitioner has sought to take up the plea that the girl is more than 16½ years of age and was in a relationship with the boy and has sought to place reliance on the photographs Annexure P/4 arguing that nothing is to be recovered from the petitioner and that it was pure and pure infatuation between the two, the present case has been got registered by way of revenge by the family of the girl and has sought to place reliance on the call details of two mobile phones.

Learned State counsel assisted by Mr. LS Sidhu, counsel for the complainant has opposed the grant of bail taking the plea that the girl was a minor and has shown the certificate of her birth showing her date of birth to be 10.2.2002 and therefore, on the day

of the occurrence was 16½ years of age arguing that in view of heinousness of crime and seriousness of allegations, dis-entitles the petitioner to any relief.

Appreciating the submissions, the own stand of the prosecutrix which is duly corroborated by the medical evidence, there is allegations of forcible penetration of sexual intercourse that too with a minor girl aged around 16½ years as is reflected from her certificate on the police file. The photographs that are sought to be relied upon by the petitioner side does not comes to their aid by any means and is subject to investigations and trial. The girl has supported her initial version in her stand made under Section 164 Cr.P.C. Keeping in view the heinousness of crime and seriousness of allegations and the fact that provisions of Section 438 Cr.P.C. are to be sparingly used and if allowed bail the petitioner might influence the witnesses and stifle the investigations and the trial. Thus, no cause of grant of bail is made out and the present petition stands dismissed.

December 14, 2018**'tiwana'****(Fateh Deep Singh)
Judge***Whether speaking/reasoned ?**Yes/No**Whether Reportable ?**Yes/No*