

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-50630 of 2018 (O&M)
Date of decision : December 14, 2018

Sukhjeet Singh Fauji

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Satbir Singh Gill, Advocate, for the petitioner
Mr. Dhruv Dayal, Sr. DAG, Punjab for the State assisted by
ASI Sarabjit Singh, PS Sadar Fazilka

Fateh Deep Singh, J. (Oral)

This order shall dispose of first anticipatory bail application of the petitioner under Section 438 Cr.P.C. filed in case FIR No. 175 dated 11.12.2016, under Section 376 IPC, Police Station Sadar Fazilka.

The present case was got registered on the statement of unmarried 22 years old girl alleging that the petitioner who happens to be the married brother-in-law (Jija) being sister's husband of the prosecutrix on 20.11.2016 administered something in a cup of tea and upon drinking it she became semi-conscious and thereafter it is alleged that the petitioner had raped her at night time leading to the registration of the present case.

Sh. Satnam Singh Gill, counsel for the petitioner contends that the petitioner is a married Army man with two children and on account of personal vengeance the present case has been falsely implanted and from

story of the prosecutrix on the face of it reflects of its unplausibility arguing that the medical evidence does not support the case of the prosecution.

Mr. Dhruv Dayal, Sr. DAG, Punjab for the State assisted by ASI Sarabjit Singh, PS Sadar Fazilka has sought to oppose the grant of bail on the ground that the petitioner an Army man supposed to be from the disciplined force and married person with two kids has ravished the girl against her wishes and has sought to project the medico legal report to show sign of fresh bleeding argued that if allowed bail, the petitioner would certainly influence the witnesses who are close relations.

Appreciating the submissions, the version given by the prosecutrix is corroborated by the medical evidence where traces of fresh bleeding have been recorded. Having regard to the marital status of the petitioner and that he belongs to Army a disciplined force and such an act within his own close family relations being not only a social taboo but also stirs the judicial conscience. The apprehension of the State that if allowed bail the petitioner would certainly influence the witnesses who are close relations together with the fact that provisions of Section 438 Cr.P.C. are to be sparingly used, no case for grant of anticipatory bail is made out. The present petition is thus dismissed.

December 14, 2018

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**(Fateh Deep Singh)
Judge**

Whether speaking/reasoned ?

Yes/No

Whether Reportable ?

Yes/No