

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-51596 of 2018 (O&M)
Date of decision : November 29, 2018

Ishma

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Nonish Kumar, Advocate, for the petitioner
Mr. Baljinder Virk, DAG, Haryana for the State

Fateh Deep Singh, J. (Oral)

This order shall dispose of first regular bail application of accused-petitioner Ishma filed in case FIR No. 42 dated 18.1.2018 under Sections 363,366,342,328,376-D,506 IPC, Police Station Assandh, District Karnal.

The initial allegations contained in the FIR got registered by Rameshwar father of a girl wherein he alleged that accused non-applicants Sushil, Sanju son of Ramesh, Sanjeev Sipo, Sonu, Sanju son of Raj Kumar had taken away her daughter aged around 17 years. The suspicion arose from the fact that her daughter was in telephonic conversation with accused non-applicant Sushil of their village leading to the registration of the present

case. It was thereafter on 20.2.2018 the girl was produced by the father before the police and her statement too was recorded in which the petitioner's name figured leading to her arrest on 24.5.2018. In the allegations in the statement, the prosecutrix has sought to allege that she was ravished by the accused side.

Mr. Nonish Kumar, learned counsel for the petitioner submits that the petitioner is behind bars for more than six months and her name does not figure initially in the FIR and subsequently she has been roped in along with her family members who all have been arraigned as an accused out of vengeance and it is a pure case of run away by love-lorn couple to which the petitioner cannot be attributed any role.

Learned State counsel Mr. Baljinder Virk, assisted by ASI Parveen Lata, Police Station Assandh District Karnal has stoutly opposed the grant of bail on the grounds that the girl at the time of occurrence was minor and thus having been physically assaulted as per statement before the learned Judicial Magistrate for which the accused are responsible does not entitle them to any relief and sought dismissal of the same.

Heard. The father has shown the age of his daughter at the time of lodging of the missing report to be 17 years when it is the admitted stand of the State that her date of birth that has come on record in the investigations is 8.11.1998 and that on the date of occurrence she was above 19 years, thus a major. The girl as per the father's version in the missing report has eloped on her own with some cash and it is after a period of time

on 20.2.2018 she has resurfaced after more than one month. There is no specific allegations against the petitioner in this entire episode nor the learned State counsel could convince this Court of any active role attributed to her in the commission of the crime. The petitioner is behind the bars for more than six months. Culpability, if any, would be determined at the time of trial which is not likely to be concluded in near future and therefore, no purpose will be served by retaining the petitioner in jail. Accordingly, she is ordered to be released on regular bail to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Karnal.

The present petition stands disposed off accordingly.

The observations made herein above shall have no binding on the merits of the case at the time of trial as these are purely for the disposal of the present bail application.

November 29, 2018
'tiwana'

(Fateh Deep Singh)
Judge

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