

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-54211 of 2018 (O&M)
Date of decision : December 13, 2018

Parveen

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Pawan Kumar Hooda, Advocate, for the petitioner
Mr. Gaurav Bansal, AAG, Haryana for the State with
ASI Naresh, PS Matlauda, District Panipat

Fateh Deep Singh, J. (Oral)

Petitioner-accused Parveen has filed this first regular bail application under Section 439 Cr.P.C. in case bearing FIR No. 202 dated 16.6.2018, under Sections 363, 366-A IPC later on added Section 34 IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Matlauda, District Panipat seeking release on bail.

The facts that have been brought to the notice of the Court are that the present case was got registered by grand-mother of a girl aged around 16 years alleging that her grand-daughter who was student of class 10th had eloped on 15.6.2018 when she left her home without informing any

one. It was subsequently when the girl was recovered it transpired that she was in a relationship with Sushil from whose custody she was got recovered. The girl had made statement refusing to undergo medico legal examination and alleged that she had gone to the house of Mehardeen for some tailoring work where she was made to consume milk and thereafter taken to a hotel where three boys in a drunken state misbehaved with her and thereafter she escaped and has recognized one of those persons to be the present petitioner leading to his arrest on 23.6.2018.

Mr. Pawan Kumar Hooda, counsel for the petitioner submits that the girl was recovered from the custody of Sushil with whom she was residing at the time of her recovery and therefore, by all means she was in a relationship with this co-accused and that no role is attributed to the petitioner except the fact that he happens to be one of the three boys who had come to her room in a drunken state and teased her and there is no medical evidence to establish the commission of offence under Section 8 of the Protection of Children from Sexual Offences Act, 2012 and further that it is the own stand of the prosecution since the inception of the FIR that the girl left her home at her own without informing any one.

Mr. Gaurav Bansal, AAG, Haryana assisted by ASI Naresh, PS Matlauda, District Panipat has stoutly opposed the grant of bail submitting that the petitioner was instrumental in helping his co-accused and thus, in view of the heinousness of the offence disentitles him to any relief.

Going through the arguments, it is a case where the FIR was

got registered by the grand-mother on the allegations that her grand-daughter had left home without informing any one and thereafter as per the allegations of the girl she went to the house of Mehardeen where she consumed milk and thereafter she was taken to a hotel where three accused in a drunken state out of whom subsequently one has been identified as Parveen, the present petitioner had teased her. The girl has been recovered from the custody of Sushil. Thus, from this all together with the fact that the girl had refused to get herself medically examined and had roamed about with her friends who happens to be the accused and thus, a debatable issue arises over the applicability of Section 8 of the Protection of Children from Sexual Offences Act, 2012 and which can be set at rest only at the trial. The petitioner is behind the bars for almost six months. Culpability, if any, shall be determined at the time of trial which is not likely to be concluded in near future, no purpose will be served by retaining the petitioner in jail. Accordingly, he is ordered to be released on regular bail to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate,

The present petition stands disposed off accordingly.

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

December 13, 2018

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**(Fateh Deep Singh)
Judge**

Whether speaking/reasoned ?

Yes/No

Whether Reportable ?

Yes/No