

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M-54757 of 2018

Date of Decision: December 17, 2018

Mohit Bhardwaj

.....Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Manoj Pundir, Advocate
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana.

FATEH DEEP SINGH, J. (Oral)

The allegations against petitioner-Mohit Bhardwaj in this first regular bail application under Section 439 Cr.P.C. in case bearing FIR No. 558 dated 09.10.2018 under Section 8 of POCSO Act 2012 and Section 506 IPC registered at Police Station Sector 9-A, Gurugram levelled by complainant Kuldeep Singh, who happens to be the father of a school going girl aged around 16 years. In his allegations, the complainant has alleged that the petitioner had been student of the same school as of his daughter and after leaving the school had been following her and used to call her on mobile phone

and wanted to move about with his daughter and for which had threatened the girl. It is further alleged that on intervention of the complainant, the petitioner had threatened to upload the photographs of the girl on the social media and alleged that in the school premises, the accused had even caressed the girl on her private area.

Mr. Manoj Pundir, learned counsel for the petitioner contends that the petitioner is behind the bars since 10 October 2018 and that the alleged victim in her statement before the police has nowhere levelled any allegations against the accused so levelled and there are only allegations of harassment and placed reliance on Annexure P-2 statement of the girl and photographs Annexure P-3 numbering 3 alongwith a marriage certificate uploaded by the girl on the social media.

Learned State counsel Mr. Amrik Narwal, DAG, Haryana assisted by Mr. ASI Subhash has opposed the bail on the grounds of heinousness of offence and the fact that a minor girl has been forced into this relationship by the petitioner and if allowed bail he will influence the witnesses.

Appreciating the submissions of the two sides though the complainant in his complaint has sought to give tinge of abuse of his daughter at the hands of the accused/petitioner but the girl child in her statement (Annexure P2) does not detail it so rather the photographs relied upon including the photographs Annexure P-3 numbering 4 having been readily accepted by the State counsel and which is well illustrative of the fact that the marriage certificate so uploaded by the

alleged victim herself shows her relationship claiming of getting married in the year 2017. Thus, a debatable issue arises over the applicability of offences under Section 8 of the POCSO Act 2012 and Section 506 of IPC.

In the light of what has been detailed and discussed above, together with the fact that culpability, if any, of the petitioner shall be determined at the trial which is not likely to be concluded in the near future. This Court is of the opinion that it is a fit case for grant of bail. Accordingly, the petitioner is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, concerned. However, it is made clear that anything observed herein shall not be construed as an expression on the merits of the case.

Disposed off.

December 17, 2018
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No