

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.1617 of 2019 (O&M)

Date of decision: 20th March, 2019

Jai Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Ravinder Hooda, Advocate for the petitioner.

Ms. Dimple Jain, Asstt. Advocate General, Haryana
for the respondent/State.

FATEH DEEP SINGH, J. (ORAL)

Allegations against the petitioner Jai Singh in this first anticipatory bail application under Section 438 Cr.P.C. in case bearing FIR No.741 dated 17.11.2018 under Sections 376/506 IPC pertaining to Police Station Bahadurgarh City, District Jhajjar, have been levelled by the prosecutrix, a married lady aged around 35/36 years. In her allegations, she alleged that the accused petitioner happens to be son of her sister-in-law (nanad) and used to reside with the family of the complainant while he was a student of ITI Delhi. It is alleged that during the course of this time, for almost eleven years the accused has been defiling her on the pretext of marriage and thereafter refused to do so, leading to registration of the present case.

Learned counsel for the petitioner Mr. Ravinder Hooda, Advocate inter alia contends that the petitioner at the time of alleged offence was a minor and the complainant was a mature married lady and

had been, as per her own allegations, in this relationship for a period of 12 years, and therefore, has termed it to be a consensual one.

Learned State counsel Ms. Dimple Jain, Asstt. Advocate General, Haryana on instructions from SI Rajender Singh, Police Station Ballabgarh though has not disputed the facts brought to the notice of this Court by learned counsel for the petitioner but has opposed grant of relief on the grounds that custodial interrogation of the petitioner is essential in view of the heinousness of the offence.

Appreciating the submissions of the two sides, the own allegations of the complainant that she is a married woman closely related to the petitioner and remained in this relationship for a period of eleven years prior to registration of the present case, which has taken place on 17.11.2018 and thus, by all means the petitioner appears to be a minor at the time of initial commission of the offence. Thus, a debatable issue arises over the applicability of Section 376 IPC and which can only be determined at the trial, which is not likely to conclude in the near future. In view thereof this Court is of the considered opinion that it is a fit case to allow the prayer.

Accordingly, in the event of arrest, petitioner is ordered to be released on bail to the satisfaction of the Arresting Officer till submission of report under Section 173 Cr.P.C. (challan). He shall continue to join investigation and shall furnish an undertaking that he shall abide by the conditions specified under Section 438 (2) Cr.P.C. Thereafter, petitioner

will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

The petition stands disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

March 20, 2019

rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No