

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-2334 of 2019 (O&M)
Date of decision : May 27, 2019

Rahul

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. DN Ganeriwala, Advocate, for the petitioner
Mr. Baljinder Virk, DAG, Haryana for the State with
ASI Ranvir, PS Women, Sirsa

Fateh Deep Singh, J. (Oral)

Petitioner Rahul has sought regular bail in case FIR No. 32 dated 27.7.2018 under Sections 323, 341, 354, 354-A, 342, 365, 376(2)N/379,506,509,120-B/34 IPC, Police Station Women Sirsa.

The FIR in this case was got registered by Jasbir Singh father of a girl aged around 23 years, a student and was acquaintance of the petitioner who is aged 24 years for the last more than two years. It is thereafter on 16.3.2018 intimation was made to the complainant that daughter of the complainant had married the

petitioner and when the complainant tried to talk to the girl, the phone was disconnected and subsequently, on 17.3.2018 the complainant side went to the place of the petitioner and met the family members where arrangement was made that the complainant would not report the matter and initiate any criminal action and then only the girl would be able to meet them. Upon doing so, the girl came back and it was disclosed that about eight months prior to this complaint which was lodged thereafter, the accused petitioner has enticed the girl and taken her to the house of her sister where the petitioner violated her and again on 16.3.2018, the girl was defiled and was also taken to the maternal uncle's house of the petitioner where she was threatened not to disclose about the incident to any one and thereafter the present case was got registered in which the petitioner was arrested and the girl in her statement under Section 164 Cr.P.C. has sought to rake up the plea that the accused on the pretext of her objectionable video often threatened her and forced her into this physical relationship.

Mr. DN Ganeriwala, learned counsel for the petitioner has argued that the victim is grown up girl aged around 23 years and was in a relationship with the petitioner for almost two years and being consensual one, allegations of rape do not subsist and has sought to

hammer home the point that there is no medical evidence to establish the allegations of rape.

Mr. Baljinder Virk, DAG, Haryana assisted by ASI Ranvir, PS Women, Sirsa has though not displaced the facts but has strongly opposed the grant of bail on the grounds that the petitioner happens to be a clever and deceptive person who had entrapped the innocent girl and used her for immoral purposes after blackmailing her and in her statements under Sections 164 and 161 Cr.P.C. has levelled allegations against the petitioner and other accused and therefore, prayed that if allowed bail, the petitioner might stifle the trial.

Going through the submissions, no doubt the victim is major and so the petitioner who both are students and were in a relationship for two years. However, a close look at the allegations that have come about in the investigations, statement of the girl under Sections 161 and 164 Cr.P.C. irrefutably are strong pointers towards the manner in which the hapless girl and being threatened victimized and blackmailed has been made to submit to the physical needs of the petitioner. To the specific query of the Court, learned counsel for the petitioner could not bear out any tangible evidence to support that it was a consensual relationship. Mere fact that there is no medical evidence to support the allegations is corroborated to

some extent by the medico legal examination of the girl and mere absence of spermatozoa in the exhibits drawn from the body of the victim is answered by the inordinate delay that has been occasioned in drawing the samples. As is the allegations of the victim that she has been traumatized, forcibly molested by the accused persons on account of conspiracy and thus, is itself suggestive of the coercion which has been heaped upon her to keep her mum. In view of the seriousness of the allegations that have come about, this Court does not finds any ground for allowing the bail. The apprehension of the State that if allowed bail, the petitioner would stifle the trial is not unfounded. The bail application stands dismissed.

May 27, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No