

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M-3462 of 2019

Date of Decision: March 05, 2019

Shubham @ Ricky

.....Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. R.P. Dhir, Advocate
for the petitioner.

Mr. Avtar Singh Sandhu, Addl. A.G., Punjab.

FATEH DEEP SINGH, J. (Oral)

This order shall dispose off the anticipatory bail application under Section 438 Cr.P.C. moved in FIR No.173 dated 23.11.2018 under Section 376 IPC and Section 4 of the Protection of Children from Sexual Offence Act, 2012 registered at Police Station Sadar, District Hoshiarpur.

The facts are that the present case was got registered on the written complaint of an unmarried girl alleging that accused/petitioner Shubham Kumar @ Ricky alongwith

co-accused/non-applicant Rakesh Kumar and Kamal since two years have deceptively raped her and forced her to lead an immoral life. The allegations initiated that accused Kamal two years prior to this complaint enticed the complainant on the pretext of love and showing his resolve to marry her and feigned a marriage with her and, thereafter, took her to the house of accused Rakesh Kumar and where she was administered an intoxicating capsule and was ravaged in the process and the accused prepared an obscene video of the complainant. After the complainant emerged from her intoxication, she realized she has been hooked to drug by the accused side and who tried to fleece her and every time on the pretext of providing her with intoxicants, if she demanded so, she was defiled and during the course of events, she was made to part with her costly gold ornaments. It is alleged that the accused, thereafter, showed obscene video of the complainant to her brother, who committed suicide leading to registration of a criminal case but thereafter it is alleged that the accused pressurized the complainant and her family to resile at the trial against them. It is alleged that another case was got registered against the present petitioner for defiling the complainant in which too the accused side strongly pressurised to secure their acquittal. Even thereafter the accused had been taken undue advantage of the young girl and had been defiling her after threatening her to disclose the facts to her husband and thus ruined her life.

Shri R.P. Dhir, learned counsel for the petitioner has sought to make submissions that the occurrence has taken place about two years prior to the registration of the case and that during the intervening period from 2nd July to 09th January 2017, the petitioner was in jail in some other case and that there is no tangible evidence to connect the petitioner with the commission of the offence and each and every allegation is false, fabricated and unsubstantiated on the records.

The learned State counsel Mr. Avtar Singh Sandhu, Addl. A.G., Punjab has opposed the grant of bail on the grounds of heinousness of the offence and seriousness of the allegations arguing that the petitioner by his acts and conduct has not only been instrumental in the death of brother of the complainant but has also repeatedly defiled her and ruined her life by hooking her to drugs and, therefore, is not entitled to any relief of anticipatory bail.

Heard.

The allegations that have been spelled out are demonstrative of the fact that how the accused in active connivance with each other by misrepresentation, deception and fraud had enticed the gullible complainant into their net and, thus, took undue advantage of her in not only defiling her but also hooking her to drugs and that too for a motivated cause. The previous criminal conduct of the petitioner is itself illustrative of his role in destroying the very fabric

of the family of the complainant are matter of serious consequence. The custodial interrogation of the petitioner in such a offence is necessitated as provisions of Section 438 Cr.P.C. are to be sparingly used. No ground for grant of bail is made out. The present petition, thus, stands dismissed.

March 05, 2019
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No