

CRM-M-4102-2019

Date of Decision : 15.03.2019

Parveen Kumar

.....Petitioner

versus

State of Haryana

....Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH**Present:** Mr. Kartar Singh, Advocate
for the petitioner.Mr. Baljinder Singh Virk, DAG, Haryana
for the respondent-State.**FATEH DEEP SINGH, J. (ORAL)**

The allegations against petitioner-Parveen Kumar in this first anticipatory bail application filed under Section 438 Cr.P.C in a case bearing FIR No.311 dated 26.08.2018 under Sections 323, 354-B, 506, 34 of the Indian Penal Code (for short 'IPC'), Section 8 of POCSO Act and Sections 3, 33 and 89 of the SC/ST Act, 1989 registered at Police Station Hathin, District Palwal, have been levelled by Rajinder Singh, father of a girl aged around 16½ years, alleging that on 26.08.2018, at the late evening, when his daughter has gone to urinate, accused/non-applicant-Anil, has tried to outrage her modesty and on raising of '*raula*' by the girl, certain persons were attracted and put the allegations against the petitioner that he

was also instrumental in helping the principal accused.

Learned counsel for the petitioner *inter alia* contends that the bare perusal of the FIR transpires that no specific role is attributed to the petitioner and a vague allegation, that he too, helped the accused and that nothing is to be recovered from him and has sought to debate the applicability of offences under Sections 354-B, 323 of the IPC and Section 8 of the POCSO Act read with Section 3/33/89 of the SC/ST Act.

On assistance of ASI Ashish Ram, Police Station Hathin, District Palwal, the learned State counsel, though does not dispute the facts brought to the notice of this Court by learned counsel for the petitioner but has strongly opposed the grant of bail and submits that custodial interrogation of the petitioner is very much essential.

Appreciating the submissions of both the sides and looking at the allegations contained in the FIR, at the fag end, only mentions vaguely that the accused/petitioner-Parveen Kumar too, helped the accused in what manner and by what means, has been left too much to doubt, and thus, a debatable issue have been arisen over the applicability of Sections 354-B, 323 IPC and Section 8 of the POCSO Act read with Section 3/33/89 of the SC/ST Act, which can only be adjudicated at the time of the trial. It would be travesty of justice by sending the petitioner behind the bars.

In view of the aforesaid, the present petition is allowed. Petitioner would appear before the Investigating Officer within 15 days from today. In the event of arrest, the petitioner shall be released on interim bail to the satisfaction of arresting/investigating officer till submission of

report under section 173 Cr.P.C. (challan). The petitioner shall, however, join the investigation as and when called for and shall also abide by the conditions specified under section 438 (2) Cr.P.C. Thereafter, on presentation of challan petitioner will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

15.03.2019*Neha***(FATEH DEEP SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No