

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-5274 of 2019 (O&M)
Date of decision : February 12, 2019

Pankaj Singh

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Vijay Kumar Sheoran, Advocate, for the petitioner
Mr. Baljinder Virk, DAG, Haryana for the State
Mr. Rajesh K. Sheoran, Advocate, for the complainant

Fateh Deep Singh, J. (Oral)

This is first regular bail application under Section 439 Cr.P.C. filed by accused-petitioner Pankaj Singh in case FIR No. 34 dated 23.5.2018 under Sections 342/354(D)(2)/365/376/506 IPC and challan presented under Sections 342/354(D)(2)/365/376/506/216/201 IPC, Police Station Women, Bhiwani.

The facts as per the allegations of the prosecution are that on 22.5.2018, the prosecutrix a married lady aged around 26 years who was known to the accused-petitioner accompanied him for getting medicine from Hansi to Hisar and thereafter they went to Bhiwani at Sun City Mall and on

the way it is alleged that the accused stopped his car on the pretext of easing himself. They went to a hotel at evening around 4.00 PM and while they were sitting in the room, it is alleged that the accused against the wishes of the prosecutrix ravished her and took her obscene photographs leading to registration of the present case and arrest of the accused on 30.10.2018.

Mr. V.K.Sheoran, counsel for the petitioner has argued that the prosecutrix happens to be the grown up married woman and were both known to each other and were in a relationship. He further contended that the prosecutrix has volunteered to come with the petitioner and has placed reliance on the photographs Annexure P/2, P/3 and P/5 as well as entry in the Jindal Guest House Annexure P/4 to drive home the point that it was a consensual relations and subsequently belatedly after a long time of the occurrence, the present case has been got registered on family pressure. The counsel has contended that the very story of forcible intercourse is falsified as there is no injury found on the person of the prosecutrix.

On behalf of the State Mr. Baljinder Virk, DAG Haryana assisted by Mr. Rajesh K. Sheoran have opposed the grant of the bail on the grounds that the petitioner had by deception entrapped the prosecutrix and defiled her and in view of the seriousness of the allegations and heinousness of the offence disentitles the petitioner to any relief and if allowed bail he would influence the trial as well.

Appreciating the submissions, it is admitted stand of both the

sides that the prosecutrix is a married lady aged around 26 years. It is the own story of the prosecutrix that she had left her home with the petitioner and as photographs reveal had wandered at commercial places and which is reflected from the CCTV footage by way of photographs the fact that the prosecutrix had as per the averments of the petitioner's counsel had gone to the Guest House and has signed the register copy of which is Annexure P/4 together with the fact that there are no circumstantial evidence by way of resistance offered by the prosecutrix to this act of defilement are matters by which a debatable issue arises over the very truthfulness of the prosecution version which can only be adjudicated at the trial. The petitioner is behind the bars since along time. Culpability, if any, shall be determined at the trial. In the light of the same, it is a fit case for grant of bail to the petitioner. Accordingly, he is ordered to be released on regular bail to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Bhiwani.

The present petition stands disposed off accordingly.

The observations made herein above shall have no bearing on the merits of the case as these are purely for the disposal of the present bail application.

February 12, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No