

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M-7625 of 2019

Date of Decision: February 28, 2019

Jai Bhagwan

.....Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. S.S. Kharb, Advocate
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana.

FATEH DEEP SINGH, J. (Oral)

This order shall dispose off regular bail application under Section 439 Cr.P.C. moved in FIR No. 387 dated 26.06.2018 under Section 376(2)(a) IPC registered at Police Station Samalkha, District Panipat.

The allegations have been levelled by the complainant a married lady having children from previous marriage aged around 50 years alleging that the petitioner too had left his previous family and both of them were residing in a live in relationship for almost 1 ½ years prior to the registration of the case. The complainant alleges that

the petitioner has been defiling her on the pretext of marriage and, subsequently, has disappeared about 1½ months prior to the registration of the case.

Sh. S.S. Kharab, learned counsel for the petitioner *interalia* contended that the petitioner is behind the bars for more than six months and both the petitioner as well as the complainant are grown up mature persons who have left their respective families and are living together and, thus, being a consensual relationship, no case of allegations of cheating and raping is crystallized from these allegations.

Mr. Baljinder Virk, DAG, Haryana on instructions from ASI Virender Singh though does not displace the factual scenario put forth by the learned counsel for the petitioner but has sought to oppose the bail on the grounds of heinousness of offence and the allegations that the accused/petitioner has acted with deceptively and impelled the complainant to submit to his physical needs and desires and, thus, if allowed bail would stifle the trial.

Going through the submissions, it is the own stand of the prosecution and is not displaced by any means that both the complainant and the petitioner are aged persons living together as per the own admission of the complainant over a long period of time and, thus, admittedly being in a consensual relationship and culpability, if any, of the petitioner shall be determined at the trial which is not likely to be concluded in the near future. This Court is of the opinion that it

is a fit case for grant of bail. Accordingly, the petitioner is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that anything observed herein shall not be construed as an expression on the merits of the case.

Disposed off.

February 28, 2019
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No