

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-8110 of 2019 (O&M)
Date of decision : February 26, 2019

Sunit Kumar @ Sumit Kumar

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. BS Chahal, Advocate, for the petitioner

Mr. Baljinder Virk, DAG, Haryana for the State

Mr. Partap Singh, Advocate, for the complainant

Fateh Deep Singh, J. (Oral)

This order shall dispose of first anticipatory bail application under Section 438 Cr.P.C. of accused-petitioner Sunit Kumar @ Sumit Kumar filed in case FIR No. 18 dated 23.1.2019, under Sections 376, 506 IPC, Police Station Women, Yamuna Nagar.

The facts brought to the notice of this Court are that the present case was got registered by Sudesh wife of Ravi Kumar, Constable in the Haryana Police on the brief allegations that family of the accused as well as the complainant were on visiting terms and on 9.6.2017 when the

complainant was alone at her house and her husband had gone for some work, it is alleged that the accused came and committed rape upon her as well as threatened her on the averments that he is in possession of obscene pictures of the the complainant and on this pretext had been seducing the complainant on a number of occasions and thereafter the present case was got registered.

Learned counsel for the petitioner Mr. BS Chahal, inter-alia contends that there is a family dispute between the two sides and prior to the present occurrence on 14.12.2018, Karamjit wife of the present petitioner has got registered an FIR Annexure P/2 against the husband of the present complainant on similar allegations and that the complainant is a mature married woman and on account of her allegations spelled out that she was in some sort of consensual relationship with the accused and that nothing is to be recovered.

On behalf of the State, learned State counsel on instructions from ASI Kamla Rani assisted by Mr. Partap Singh, learned counsel for the complainant have sought to oppose the grant of bail on the grounds of seriousness of the allegations claiming that custodial interrogation of the petitioner is very much essential and heinousness of the offence disentitles to any relief of anticipatory bail.

Going through the submissions, apparently as it is reflected the wife of the present petitioner had got registered an FIR of similar nature and on almost same offences including Section 376 IPC Annexure P/2 much

prior in time in December, 2018 and the present case has been got registered in the month of January, 2019 belatedly and thus, a debatable issue arises if the same tantamounts to counter-blast of the first FIR. A close perusal of the FIR further envisages that there was some sort of long term consensual relationship between the accused and the complainant. It would be traversity of justice to send the petitioner behind the bars and stands of the two sides would be well adjudicated at the time of trial.

In view of the aforesaid, the present petition is allowed. 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, the petitioner will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

The present petition stands disposed of.

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 26, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No