

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-10175 of 2019 (O&M)
Date of decision : May 01, 2019

Akash Verma

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. NS Shekhawat, Advocate, for the petitioner

Mr. Baljinder Virk, DAG, Haryana for the State with
ASI Pardeep Kumar, PS SGM Nagar, Faridabad

Mr. IPS Kohli, Advocate, for the complainant

Complainant also in person

Fateh Deep Singh, J. (Oral)

This order shall dispose of first anticipatory bail application under Section 438 Cr.P.C. filed before this Court by accused-petitioner Akash Verma in case bearing FIR No. 55 dated 5.2.2019 under Sections 323, 506, 376 IPC, Police Station SGM Nagar, Faridabad.

The facts that emanates in the submissions of the two sides are that the present case was got registered by complainant having date of birth dated 16.10.1991. In her allegations the complainant alleges that the accused petitioner entered into physical relationship with the complainant on the pretext of getting married and even blackmailed her by showing her obscene photos and on this pretext had been carrying on this defilement of the complainant. The complainant further states that on 27.1.2019, the accused got engaged to another lady and inspite of objections by the complainant, the accused went ahead with it and on the basis of this complaint, the present case was got registered.

Mr. NS Shekhawat, counsel for the petitioner has made forceful submissions arguing that the complainant is levelling false allegations against the petitioner as she happens to be already married with one Kamal Thapa out of which the couple has been bestowed with a male child Piyush and has sought to make reliance on photographs to this effect. Mr. Shekhawat has argued that the complainant happens to be a grown up mature married lady and rather had been instrumental in making false representation to the petitioner enticing him to enter into this relationship with her and thus, blackmailing him and entire allegations are unsupported by any

medical means and thus, termed such relationship to be consensual relationship between two grown up persons. By placing reliance on **Prashant Bharti vs State of NCT of Delhi, 2013(3) R.C.R. (Criminal) 399**, counsel for the petitioner has sought allowing of the bail.

Mr. Baljinder Virk, DAG, Haryana assisted by ASI Pardeep Kumar, PS SGM Nagar, Faridabad and Mr. IPS Kohli, Advocate, for the complainant has led scathing attack on the petitioner's version of the marital status of the complainant, their claim of a child out of her matrimony and has sought to assail the veracity of the documents and the claim of the petitioner. It was contended that the allegations that the complainant was vagabond levelled by the petitioner side are figment of imagination and that the voluminous documents placed on the record are suggestive of the enticement by the petitioner for which custodial interrogation of the petitioner is very much essential.

Appreciating the submissions, it would be inappropriate for this Court to comment upon the veracity of the documents including the photographs so being relied by the two sides at this juncture which can be taken note of at appropriate stage of the trial. As one could gather, the complainant is a grown up lady mature

enough educated and as per her own allegations has remained in this relationship over a long period of time. Even during the course of submissions, counsel for the complainant could not deny the photographs of the complainant with the present petitioner. Thus, a debatable issue arises over the fact whether the accused-petitioner on the fraudulent pretext of marriage has defiled the complainant and it can only be comprehensively adjudicated at the trial. Besides the fact that there is no substantial and cogent medical evidence to prove this defilement and what is left is mere probabilities and preponderances. There is no cause for custodial interrogation as nothing is to be recovered from the petitioner. It would be traversity of justice to send the petitioner behind the bars and his joining the investigations would suffice the purpose.

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.

May 01, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No