

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.10718 of 2019
Date of decision: 31st May, 2019

Jaspal Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. M.S. Uppal, Advocate for the petitioner.

Mr. A.S. Sandhu, Addl. Advocate General, Punjab
for the respondent/State.

FATEH DEEP SINGH, J. (ORAL)

Allegations against the petitioner Jaspal Kumar in this first regular bail application under Section 439 Cr.P.C. in case bearing FIR No.13 dated 22.01.2018 under Sections 376/120-B IPC pertaining to Police Station Sadar Mansa, have been levelled by the prosecutrix, a girl aged around 20 years. In her allegations, the girl claims that she came in contact with the accused in the year 2016 and on the pretext of entering into a wedlock, the accused used to defile her and also promised her that they will settle abroad. It is during the course of these two years the accused has been violating her many a times and the last incident happened in October 2017 leading to registration of the present case.

Learned counsel for the petitioner Mr. Manjit Singh Uppal, Advocate inter alia contends that the prosecutrix admittedly is a major of 20 years of age and had been in this relationship for two years as per her own stand and thus, being a consensual one and the fact that petitioner is behind bars for more than one year entitles him to grant of bail.

On behalf of the State, Mr. A.S. Sandhu, Addl. Advocate General, Punjab on instructions from ASI Vakeel Chand, Police Station Sadar Mansa has not disputed the facts narrated before this Court by learned counsel for the petitioner but has opposed the grant of bail on the grounds that there are serious allegations against the petitioner and if allowed bail he would influence the witnesses at the trial.

Appreciating the arguments of the two sides, the victim admits herself to be a major and being in this relationship for more than two years. Thus, a debatable issue arises over the very applicability of Section 376 IPC which can only be adjudicated at the trial after the parties lead their evidence. The petitioner is behind bars since a long time and the trial is not likely to conclude in the near future, therefore this Court is of the opinion that no useful purpose will be served by keeping the petitioner in custody in the present case. Accordingly, he is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Mansa. However, it is made clear that anything observed herein shall not be construed as an expression on the merits of the case.

The petition stands disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

May 31, 2019

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No