

CRM-M-13253-2019

Date of Decision : 22.04.2019

Aman

.....Petitioner

versus

State of Haryana and another

....Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH**Present:** Mr. Abhishek Singh, Advocate
for the petitioner.Mr. Baljinder Singh Virk, DAG, Haryana
for respondent No.1-State.Mr. Salil Sabhlok, Advocate
for the complainant/respondent No.2.**FATEH DEEP SINGH, J. (ORAL)**

This order shall dispose off first anticipatory bail application under Section 438 Cr.P.C in a case bearing FIR No.0224 dated 25.11.2018 filed under Sections 376 and 452 of the Indian Penal Code registered at Police Station Kaithal Sadar, District Kaithal, Haryana.

The allegations against accused/petitioner-Aman, have been levelled by the prosecutrix, who is an unmarried girl aged around 18 years and 05 months. It is alleged by the prosecutrix that during the intervening night of 24th/25th November, 2018, while she was asleep in her house, the accused trespassed into the house and forcibly defiled her against her

wishes leading to the registration of the present case.

Learned counsel for the petitioner *inter alia* contends that the present case was got registered on misconception and that the parties have effected a compromise, regarding which, a duly attested affidavit of the prosecutrix (Annexure P-4) has placed on the record and argued that in light of this, the petitioner is entitled to the relief.

On instructions from ASI Ram Niwas, Police Station Kaithal Sadar, District Kaithal, Haryana, the learned State counsel assisted by learned counsel for the complainant/respondent No.2-Anita, though do not displace the facts brought to the notice of this Court, as the prosecutrix who is present in person in Court today and has been identified by her counsel Mr. Salil Sabhlok, Advocate, has vouched for having settled the dispute with the petitioner and asserted that she has voluntarily filed an affidavit (Annexure P-4) before this Court and has shown a resolve that she does not object if the petitioner is allowed bail. However, on behalf of the State, the learned State counsel has sought to oppose the grant of bail on the grounds of heinousness of the offences.

Going through the submissions admittedly, the prosecutrix-Anita at the time of the alleged offences, was major and has shown her resolve that she does not objects to allowing the present petition as she has settled the dispute with the accused/petitioner-Aman.

In view of this stand, though the offence for which the petitioner has been hauled up is of serious nature, however, his joining investigations would suffice the purpose and it would be travesty of justice

by sending the petitioner behind the bars.

In light of this arrangement, the present petition is allowed. Petitioner-Aman would appear before the Investigating Officer within 15 days from today and shall fully cooperate in the investigations. On his doing so, 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). However, in case, the petitioner fails to cooperate, the prosecution reserves its rights to file proper application seeking cancellation of bail. He shall also abide by the conditions specified under section 438 (2) Cr.P.C. Thereafter, on presentation of challan petitioner will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

Disposed off.

22.04.2019

Neha

**(FATEH DEEP SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No