

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-14402 of 2019 (O&M)
Date of decision : May 20, 2019

Jaswinder Singh

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Ashok K. Sama, Advocate, for the petitioner

Mr. Saurav Khurana, DAG, Punjab, for the State with
ASI Balvir Singh, PS Khuian Sarwar, District Fazilka

Fateh Deep Singh, J. (Oral)

This anticipatory bail application under Section 438 Cr.P.C. by accused petitioner Jaswinder Singh has come up in case bearing FIR No. 57 dated 26.6.2018, under Sections 376, 366, 450 IPC, Police Station Khuian Sarwar, District Fazilka.

The present case was got registered by unmarried girl aged around 18½ years alleging that one day prior to 26.6.2018 around 11.45 PM, when she came out in the open to urinate in the bath room, accused petitioner signalled the complainant to come out

to which she refused and thereafter it is alleged that the accused after gagging the mouth of the complainant took her to the fields and forcibly raped her against her wishes leading to the registration of the present case.

It is contended by the counsel for the petitioner that the complainant is a major aged above 18½ years and it was a consensual relationship and there is nothing suggestive from the medical report of this sexual assault and the entire story is unpalausible.

Learned State counsel has opposed the grant of the bail by drawing attention of the Court to the medical report, the report of the Chemical Examiner and the statement of the prosecutrix under Section 164 Cr.P.C. to derive home the point that the presence of spermatozoa is suggestive and corroborative of these allegations and therefore, prayed for declining the bail to secure custodial interrogation.

Considering the arguments of the two sides as per the report of the Chemical Examiner Spermatozoa has been found on the exhibits. There is specific allegation levelled in the FIR which is further there in the statement under Section 164 Cr.P.C. made by the victim along with the medical report. In view of the heinousness of the offence together with the fact that the investigations are at crucial stage and therefore, custodial interrogation of the petitioner is very

much essential. Finding no merit, the same stands dismissed.

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 20, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No