

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M-14648 of 2019

Date of Decision: April 12, 2019

Yudhishter Dahiya

.....Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Birender Singh Rana, Sr. Advocate with
Ms. Divya Bajaj, Advocate
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana.

FATEH DEEP SINGH, J. (Oral)

This order shall dispose off first anticipatory bail application under Section 438 Cr.P.C. moved in FIR No. 139 dated 16.04.2018 under Sections 376, 342 and 406 IPC and Section 3 of the SC/ST Act, 1989 Police Station Sector 9-A, District Gurugram.

The brief allegations are as follows:-

“Complainant a lady aged around 35 years who works as sweeper in the Municipal Corporation claims that she has borrowed money from Yudhishter Dahiya through

Dharamvir and it is alleged that she was made to sign on certain blank cheques. It is claimed that on 26.12.2017 while the complainant was carrying on her duties as a sweeper on the road, the accused/petitioner is alleged to have called her for a cup of tea to which she declined and, subsequently, was again called to the office of the accused/petitioner and when she entered the office, it is alleged that the accused had forcibly ravaged her against her wishes leading to the registration of the present case”.

Mr. Birender Singh Rana, learned counsel for the petitioner *interalia* contends that the petitioner had initiated action under the provisions of the Negotiable Instruments Act for dishonour of the cheques issued by the complainant regarding which a registered AD notice was issued on 18.01.2018 much prior to the registration of the present case, which has taken place on 16.04.2018 terming it to be counter blast and argued that nothing is to be recovered from the petitioner.

Mr. Amrik Narwal, DAG, Haryana learned State counsel on instructions of SI Bijender Singh, Police Station Sector 9-A Gurugram though accepts the facts entailed by the petitioner side but has opposed the grant of the bail on the ground of heinousness of the offence.

Going through the submissions and keeping in view the allegations and the counter allegations a debatable issue arises over the fact whether the prosecution has been set up as a counter blast to the proceedings initiated under Section 138 of Negotiable Instruments Act Act which could only be adjudicated at the time of final hearing of the case before the trial Court.

In the light of what has been detailed and discussed above, together with the fact that culpability, if any, of the petitioner shall be determined at the trial which is not likely to be concluded in the near future. Therefore, in the event of arrest, the petitioner be released on *interim* bail to the satisfaction of Arresting/Investigating Officer. The petitioner shall, however, join the investigation as and when called for to do so and he shall abide by the conditions as envisaged under Section 438(2) Cr.P.C. Thereafter, will be released on regular bail upon presentation of challan.

Disposed off.

April 12, 2019
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No