

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-14872 of 2019 (O&M)
Date of decision : October 17, 2019

Inderjit Singh @ Gagi

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. RS Rana, Advocate, for the petitioner

Ms. Sakshi Bakshi, AAG, Punjab for the State with
ASI Jasvir Singh, PS Dhanaula

Fateh Deep Singh, J. (Oral)

This regular bail application by accused-petitioner Inderjit Singh @ Gagi has come about in case FIR No. 30 dated 28.3.2018 under Sections 363, 366 IPC (Section 376 IPC added lateron), Police Station Rureke Kalan, District Barnala.

The case was got registered on the statement of unmarried girl aged around 19 years alleging that the petitioner along with his father, mother, maternal uncle of accused non-petitioners under threat on 5.1.2018 had abducted and enticed her and kept her at un-known place for seven days and all the male

accused defiled and threatened her leading to the registration of the present case.

Learned counsel for the petitioner inter-alia contends that the complainant was earlier married with one Amanpreet Singh and had a matrimonial dispute and has left her matrimonial home and that the complainant had intended to marry the petitioner who declined and as a consequence of which in connivance with her family, a false case has been got registered, submitting that being a major, there is nothing suggestive to show that the prosecutrix was defiled by the petitioner except her bald oral testimony and that no DNA test has been conducted to connect the petitioner with the commission of the offence.

Learned State counsel do not dispute the facts that have been canvassed by the petitioner side but has opposed the grant of bail on the grounds of heinousness of crime and seriousness of allegations submitting that the vaginal swaps shows presence of spermatozoa and therefore the petitioner is not entitled to any relief.

Admittedly, the petitioner in her stand taken under section 164 Cr.P.C. claims herself to be 19 years of age, thus a major and states that the accused had taken her to Rajasthan and solemnized Anand Karaj with her and defiled her repeatedly and thereafter she was set free.

Going through the submissions, the petitioner happens to be a major deserted woman. The occurrence is alleged to have taken place on 5.1.2018 and the FIR has come about on 28.3.2018. The fact that the prosecutrix in her stand before the learned ACJM in statement under Section 164 Cr.P.C. accepts the fact that she was taken to Rajasthan and marriage was solemnized are matters of much relevance and therefore, a debatable issue arises over the applicability of offences under Sections 363, 366, 376 IPC which can only be adjudicated at the time of trial. The petitioner is behind the bars since a long time and the culpability, if any, shall be determined at the time of trial. Accordingly, he is ordered to be released on regular bail to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Barnala.

The present petition stands disposed off accordingly.

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.

October 17, 2019

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**(Fateh Deep Singh)
Judge**

Whether speaking/reasoned ?

Yes/No

Whether Reportable ?

Yes/No