

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-15747 of 2019 (O&M)
Date of decision : April 10, 2019

Rohit

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Rakesh Kumar Lathwal, Advocate, for the petitioner
Mr. Amrik Narwal, DAG Haryana for the State

Fateh Deep Singh, J. (Oral)

Petitioner Rohit who is in judicial custody in case FIR No. 480 dated 2.12.2018, under Sections 363, 366-A IPC and Sections 376, 420, 467, 468, 471, 120-B IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (added later on), Police Station Sadar Gohana, District Sonapat has moved this Court seeking grant of regular bail under Section 439 Cr.P.C.

The present case has been got registered on the complaint of Balbir father of an unmarried girl aged around 17 years 2 months alleging that on 30.11.2018, his daughter had run away from the home leading to the registration of the present case.

Mr. Rakesh Kumar Athwal, counsel for the petitioner inter-alia contends that the girl in her statement under Section 164 Cr. PC. got recorded before the Judicial Magistrate and in her statement under Section 161 Cr.P.C. recorded before the police has denied any role of the accused-petitioner in commission of the offence and has rather taken the stand that she was major and has undergone marriage with the petitioner and has placed on record photostat copy of the marriage certificate to this effect. It is prayed that the petitioner is behind the bars since a long time and be allowed the relief.

Mr. Amrik Narwal, DAG Haryana assisted by ASI Narender, Police Station Gohana, District Sonapat fully concedes to the facts brought to the notice of this Court by the counsel for the petitioner and even accepts the fact that in the medico legal examination nothing tangible has come to prove the offence of rape/defilement of the girl but has opposed the grant of the relief in view of seriousness of the allegations.

As is there in the records of the police, there is nothing to suggest commission of rape upon the prosecutrix. The own stand of the State that the petitioner as well as the prosecutrix has undergone solemnization of marriage and does not displace the fact that the girl did not support the prosecution stand either in her statement under Section 164 Cr.P.C. or under Section 161 Cr.P.C. Even the age claimed by the girl in her documents and so claimed by the State to be 17 years and 2 months are at variance and which can only be comprehensively adjudicated at the trial.

The petitioner is behind the bars since a long time and the trial is not likely to be concluded in near future, no purpose will be served by retaining the petitioner in jail. Accordingly, he is ordered to be released on regular bail to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Sonipat.

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.

April 10, 2019
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(Fateh Deep Singh)
Judge

<i>Whether speaking/reasoned ?</i>	<i>Yes/No</i>
<i>Whether Reportable ?</i>	<i>Yes/No</i>