

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-41531 of 2018 (O&M)
Date of decision : February 01, 2019

Anil Kumar

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Rajdeep Singh Gill, Advocate for the petitioner
Mr. Baljinder Virk, DAG, Haryana for the State

Fateh Deep Singh, J. (Oral)

This order shall dispose of first regular bail application under Section 439 Cr.P.C. of accused-petitioner Anil Kumar filed in case FIR No. 562 dated 23.10.2017 under Sections 365, 376, 506 IPC, 3 SC/ST Act, 1989 and 4 of the POCSO Act, 2012, Police Station Civil Lines, Rohtak.

The brief facts that emanates from the submissions of the two sides are that on 23.10.2017 daughter of the complainant Aman Kumar aged around 14-14½ years eloped as she did not return back to her home leading to the registration of the present case.

During the course of investigations the girl was got recovered on 24.10.2017 leading to arrest of accused Akash and subsequently on his

statement present petitioner was arrested.

Mr. Rajdeep Singh Gill, counsel for the petitioner submits that the petitioner is neither named in the FIR nor in the statement under Section 164 Cr.P.C. made by the girl nor he has been ever identified and is behind the bars since long time.

Learned State counsel on instructions from ASI Satish Kumar, Police Station Civil Lines Rohtak does not disputes the facts brought to the notice of the Court but has opposed the bail in the light of the heinousness of crime and seriousness of allegations contending that co-accused has named the petitioner.

Appreciating the submissions, the total inability and apathy of the prosecution either to name the accused in the FIR, statement under Section 164 Cr.P.C. of the victim or any tangible evidence is a fact which undermines the case of the prosecution. The only semblance of evidence that has come about as per the stand of the State is the statement of the co-accused which per-se is not admissible and its legal worth is a debatable issue to be adjudicated at the time of trial. The petitioner is behind the bars since long time. 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, Rohtak.

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.

February 01, 2019

(Fateh Deep Singh)
Judge

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