

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M-41550 of 2018

Date of Decision: February 01, 2019

Rajinder Singh @ Raju

.....Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. R.S. Mamli, Advocate
for the petitioner.

Mr. Baljinder Virk, DAG, Haryana.

FATEH DEEP SINGH, J. (Oral)

The allegations against the accused petitioner Rajinder Singh @ Raju in this first regular bail application under Section 439 Cr.P.C. have been levelled by the young girl aged around 8 years alleging that on the day of occurrence, i.e. 15.06.2018 at night time around 11.00 p.m., when she came home from the house of her aunty after watching T.V. and knocked the door the accused whom she called Mamu from close relations put his hands on her mouth and laid upon her and subsequently in her statement under Section 164 Cr.P.C. she further added that after this incident when she went to sleep on the upper floor, she saw the accused in a compromising position with her

mother leading to the registration of the present case and arrest of the petitioner on 16.06.2018.

Shri R.S. Mamli, at the very onset has *interalia* contended that it was an extra marital affair of the mother with the accused and the father had fabricated the story to rope in the accused with a view to ensure that he remains behind the bars and the fact that the petitioner is behind the bars for almost 7 ½ months and investigation and trial of the case are not likely to be concluded in near future.

Mr. Baljinder Virk, DAG, Haryana on instructions from ASI Kalu Singh, Police Station Sector 16 Faridabad accepts the facts that that have been canvassed by the learned counsel for petitioner but has opposed the grant of the bail on account of the heinousness of the crime and further submits the petitioner if allowed the bail he would influence the trial.

After going through the submissions, the stand of the girl child who got recorded the FIR herself before the police accompanied by her father and subsequently before the learned Judicial Magistrate 1st Class had further spelled out the conduct of the petitioner and what she has come across on the upper floor of the house is a debatable issue over the claim of the petitioner side if the child has been used as a tool by the father as a revenge against the petitioner *prima facie*, there is no allegations of either aggravated sexual assault much less any offence, which can only be determined at the trial when parties would lead evidence.

Appreciating the submissions from the two sides and in

view of the fact that the petitioner is behind the bars for almost two months and a perusal of the FIR shows that that no specific allegations attributed to the petitioner coupled 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. This Court is of the opinion that it is a fit case for grant of bail. Accordingly, the petitioner is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that anything observed herein shall not be construed as an expression on the merits of the case.

Disposed off.

February 01, 2019
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No