

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-19662 of 2019 (O&M)
Date of decision : December 05, 2019

Tushar

....Petitioner

versus

State of Haryana and another

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Aman Priye Jain, Advocate, for the petitioner
Mr. Amrik Narwal, DAG Haryana for the State

Fateh Deep Singh, J. (Oral)

Petitioner Tushar accused in case FIR No. 46 dated 26.2.2019 under Section 376 IPC, Police Station DLF-II, Gurugram, has sought anticipatory bail in this case.

The present case was got registered by a widowed lady aged around 32 years having two children. It is claimed that while she was working in a private office in Delhi, she came across accused who too was in the same very office and thereafter they developed intimacy and repeatedly talked to each other. The

complainant alleges that the accused made proposal of marriage to which she agreed. On 14.2.2019 on the asking of the accused the complainant went to a commercial place in Gurugram and to work out the modalities for their alliance the accused booked hotel room and while staying there, it is alleged that under force and intimidation the accused developed physical relations with her. However, thereafter the accused had been taking undue advantage of the prosecutrix but subsequently backed out of the promise to marry her leading to the registration of the present case.

Learned counsel for the petitioner contends that the complainant happens to be a grown up mature lady and had volunteered into this relationship and a false case has been got registered and there is nothing to support the prosecutrix on the medical side and has sought to place reliance on the photographs Annexure P/4 numbering four.

Learned State counsel has opposed the bail on the grounds that though it was a relationship of two adults but it was under deception and fraud committed by the accused, the lady was taken for and therefore, is suggestive of element of cheating. The prosecution claims that if allowed bail, the petitioner might influence the trial.

The photographs placed on the record, the fact that the complainant claims to be in this relationship over a long period of time while they were working together, a debatable issue arises over the very applicability of offence under Section 376 IPC which is only a matter of evidence at the trial. No useful purpose will be served by sending the petitioner to custody.

In view of the aforesaid, the present petition is allowed. In the event of arrest, the petitioner shall be released on interim bail to the satisfaction of arresting/investigating officer till submission of report under section 173 Cr.P.C. (challan). The petitioner shall, however, join the investigation as and when called for and shall also abide by the conditions specified under section 438 (2) Cr.P.C. Thereafter, on presentation of challan, the petitioner will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

The present petition stands disposed of.

December 05, 2019

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**(Fateh Deep Singh)
Judge**

*Whether speaking/reasoned ?
Whether Reportable ?*

*Yes/No
Yes/No*