

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M-47020 of 2018

Date of Decision: February 01, 2019

Raj Singh

.....Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. L.S. Sekhon, Advocate with
Mr. Tahar Singh, Advocate
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

FATEH DEEP SINGH, J. (Oral)

This order shall dispose off first regular bail application of petitioner Raj Singh in this case got registered on the statement of complainant Jaspal Singh paternal uncle of girl aged around 17 years. In his allegations, the complainant alleged that his niece aged around 17 years disappeared from their home during the intervening night on 09.07.2018 leading to the registration of the present case on 14.07.2018 and recovery of the girl on 15.07.2018 from Bus Stand Dhuri. The petitioner had been apprehended on the very same day in this case.

Mr. L.S. Sekhon, learned counsel for the petitioner has

vehemently argued that it was a pure love affair as the girl in her statement recorded on 16.07.2018 under Section 164 Cr.P.C. and under Section 161 Cr.P.C. recorded on 15.07.2018 had accepted the fact that she was in a relationship with the petitioner and had love affair with the petitioner and she had left her home at her own free will and volunteriness and without any duress or coercion and that subsequently the Investigating Agency has fabricated evidence to implicate the petitioner at the behest of the complainant and which is not tenable as the medico legal examination was conducted and report of chemical examiner was made on 27.09.2018.

Mr. Saurav Khurana, DAG, Punjab has vehemently opposed the grant of bail on assistance of ASI Malkiat Singh on the grounds that as per the report of the chemical analysis spermatozoa had been detected on the exhibits and that in her supplementary statement under Section 161 Cr.P.C. recorded on 26.11.2018, girl has implicated the accused with the charges that he had raped her against her wishes.

Going through the submissions of the two sides, since the girl was recovered on 15.07.2018 and her statement recorded on that day under Section 161 Cr.P.C. and in her statement subsequently recorded before the learned Judicial Magistrate under Section 164 Cr.P.C. she stated in no uncertain terms that she was in relationship with the petitioner and left the house on her own free will and accord. Furthermore, the facts as to the claim of the State that spermatozoa had been detected on the exhibits certainly is a debatable issue arises when

the girl was recovered on 15.07.2018 the analysis having been undertaken on 27.09.2018 are subject matters which create a suspicion over the credibility of such a report. Furthermore, the reversal of the statement and stand of the girl after almost three months and ten days in her supplementary statement further undermines the case and the truthfulness of the prosecution story, this Court without feeling the necessity to further advert on the merits lest it would prejudice the case of the either party at the trial and keeping in view the fact that the petitioner is behind the bars since long and the culpability, if any, of the petitioner shall be determined at the trial which is not likely to be concluded in the near future 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