

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.48802 of 2018

Date of decision: 18th January, 2019

Suleman @ Billu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. H.S. Dhindsa, Advocate for the petitioner.

Mr. Saurav Khurana, Dy. Advocate General, Punjab
for the respondent/State.

FATEH DEEP SINGH, J.

This order shall dispose off first regular bail application of petitioner Suleman alias Billu under Section 439 Cr.P.C. in case bearing FIR No.0083 dated 06.04.2018 under Sections 323, 324, 376-D, 506, 120-B IPC read with Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 pertaining to Police Station Jamalpur, District Ludhiana.

The facts brought to the notice of this Court by the two sides are that the present case was got registered by Gyan Singh father of the girl (referred to as 'the prosecutrix') submitting that on 01.04.2018 all the family members had gone for their work and when he returned back around 1:30 p.m., his daughter (the prosecutrix) was not available and

had disappeared. It was alleged on suspicion that some unknown person had hidden her, leading to registration of the present case.

It was during the course of investigations on 06.07.2018 upon recovery of the prosecutrix, her statement was got recorded who stated that she had on 01.04.2018 at around 11:30 a.m. left her home on her own without informing the family and went to Samrala Chowk and met one person by the name of Mohammad Mehtaj who won over her confidence and took her to Dera of Gujjars at village Bhagpur, Ludhiana where she resided with Mohammad Mehtaj (co-accused non-applicant) as his daughter under a fake name Muskan and thereafter, he forcibly on 11.04.2018 performed her marriage against her consent with one Salim (co-accused non-applicant) and then they went to a village in Hoshiarpur. She alleged that Salim and his maternal uncle Kaalu (co-accused non-applicant) raped her against her consent and on her resistance she was physically beaten by Salim, Kaalu, Billu and Fagrun and confined her in their house and levelled insinuations against Mohammad Mehtaj, Salim, Kaalu, Billu and Fagrun and thereafter on 04.07.2018 she managed to slip away from the place to her home and thereafter appeared before the police. It was during the course of investigations, the petitioner was arrested on 22.07.2018.

Learned counsel for the petitioner Mr. H.S. Dhindsa, Advocate has forcefully argued that in the first version of the prosecution

by way of statement of father of the prosecutrix, which is subject matter of the FIR, he has not levelled any allegation against the present petitioner and rather has claimed that the girl has left her home on her own and subsequently in her statement made before the police, the prosecutrix on 06.07.2018 did not attribute any specific role to the petitioner and that even the complainant Gyan Singh as PW1 and the prosecutrix as PW2 at the trial did not support the prosecution story and has placed on record attested photostat copies of the same.

On behalf of the State, Mr. Saurav Khurana, learned Deputy Advocate General, Punjab on instructions from ASI Baldev Singh, Police Station Jamalpur, District Ludhiana has sought to oppose the grant of bail on the grounds that the prosecutrix happens to be a minor girl who has been taken away and thereafter left and in view of the heinousness of the offence and seriousness of allegations does not entitle the petitioner to any relief and has placed on record a copy of the report of the Chemical Examiner to show that there is corroborative evidence to this effect.

Appreciating the arguments of the two sides, thus what has come up before this Court in this case detailed and discussed above and the inability of the prosecution to point out any semblance of evidence against the petitioner Suleman alias Billu, the fact that he is behind bars since a long time and that culpability, if any, shall be determined at the time of trial, it is a fit case to allow bail. Accordingly, the petitioner is

ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Ludhiana. However, it is made clear that anything observed herein shall not be construed as an expression on the merits of the case.

The petition stands disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

January 18, 2019

rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No