

CRM-M-27819-2019

Date of Decision : 21.11.2019

Malkeet Singh

.....Petitioner

versus

State of Haryana

....Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH**Present:** Ms. Simmi Saini, Advocate
for the petitioner.Mr. Baljinder Singh Virk, DAG, Haryana
for the respondent-State.**FATEH DEEP SINGH, J. (ORAL)**

In this first regular bail application under Section 439 Cr.P.C., filed by petitioner-Malkeet Singh, in a case bearing FIR No.376 dated 01.10.2018 under Sections 376, 506 and 120-B of the Indian Penal Code registered at Police Station Nissing, Karnal, the allegations have come about by the complainant, an unmarried girl, aged around 20 years, who happens to be first cousin of the petitioner. It is alleged that on 17.08.2018, at noon, the petitioner came and took the victim on his motorcycle from her college and, thereafter, they reached petitioner's house where

co-accused, Raj, Paramjeet Singh and Narinder @ Dimple, mother, father and sister of the petitioner, respectively, were present and all of them consumed cold drink and afterwards, the victim fell unconscious and the accused/petitioner defiled her thrice and thereafter, took her back on his motorcycle on the same very day in the evening leading to the registration of the present case and arrest of the petitioner on 13.10.2018.

Learned counsel for the petitioner *inter alia* contends that it is a pure simplicitor family feud and the FIR had come after one and a half month of the alleged occurrence and there is no medical evidence to corroborate the allegations and has sought to dispute the allegations on account of improbable biological inability as per the allegations.

The learned State counsel, on instructions from SI Subhash, Police Station Nissing, Karnal, with all fairness concedes at the bar that there is no medical evidence to support the allegations and that the complainant happens to be a grown up lady but has opposed the grant of bail on the ground of heinousness of the offences.

What has come across to this Court from the plain reading of the allegations, it is highly improbable to accept on the face of it that petitioner, in the presence of his parents and sister, has done so.

Furthermore, there is no medical evidence to support the allegations which have come about belatedly more than after one and a half month, besides the fact, as has sought to be claimed that it is highly improbable to enter into this relationship thrice within a short span of time due to biological inability. The matter stirs the conscious of the Court and further, without adverting on to the merits of the case, the present petition is allowed. The petitioner is behind the bars for about more than one year, thus, culpability, if any, shall be determined at the trial, this Court is of the opinion that it would serve no useful purpose to further detain the petitioner in custody. Accordingly, he is ordered to be released on regular bail to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate/Ilqa Magistrate of the Court concerned.

The petition stands disposed off accordingly.

21.11.2019

Neha

**(FATEH DEEP SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No