

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

CRM-M No.29664 of 2019

Date of decision: 19th July, 2019

Yaki

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. B.N. Singh Marok, Advocate for the petitioner.

Mr. Harbir Sandhu, Assistant Advocate General, Punjab
for the respondent/State.

FATEH DEEP SINGH, J. (ORAL)

Allegations against the petitioner Yaki in this first regular bail application under Section 439 Cr.P.C. in case bearing FIR No.280 dated 28.12.2018 under Section 376 IPC pertaining to Police Station Sadar Ferozepur have been levelled by an unmarried girl aged around 24 years, a school drop-out after 12th class, alleging that about six years prior to the registration of the present case, which is on 28.12.2018, she befriended the petitioner, her co-villager, and entered into a physical relationship and thereafter, in the year 2013 the petitioner married somebody else and even thereafter, it is the own claim of the complainant that she continued with this physical relationship with the petitioner and it is subsequent thereto on account of dispute between them, the present case has been got registered, in which the petitioner was arrested on 18.03.2019.

Learned counsel for the petitioner Mr. Benant Noor Singh Marok, Advocate contends that the prosecutrix happens to be a mature grown up girl and had volunteered into this relationship and which continued even after marriage of the petitioner, is itself illustrative of the relationship being consensual.

On behalf of the State, Mr. Harbir Sandhu, Assistant Advocate General, Punjab on instructions from ASI Balbir Singh, concedes to the facts brought to the notice of this Court but has opposed the grant of relief on the grounds of heinousness of the offence and seriousness of allegations.

Going through the submissions of the two sides, the own allegations levelled by the prosecutrix are illustrative of her being a major and in a consensual relationship for a long period of time. Thus, offence under Section 376 IPC becomes a debatable issue which can only be adjudicated at the time of trial which is not likely to conclude in the near future. Accordingly, this Court is of the opinion that no useful purpose will be served by keeping the petitioner in custody in the present case. Accordingly, he is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Ferozepur. 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

July 19, 2019

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No