

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

CRM M-32670 of 2019 (O&M)

Date of Decision: October 24, 2019

Monu

.....Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Sandeep Gahlawat, Advocate
for the petitioner.

Mr. Baljinder Virk, DAG, Haryana.

Mr. Naveen Kumar Jaglan, Advocate
for the complainant.

FATEH DEEP SINGH, J. (Oral)

CRM 27264 of 2019

Since this application is moved in compliance of
order dated 22.08.2019 passed by this Court, the same is
allowed subject to all just exceptions. Annexures P-5 and P-6

(Colly.) are taken on record. Office to tag the same as per Rules.

CRM M-32670 of 2019

The allegations against petitioner Monu in this first anticipatory bail application filed before this Court in case FIR No.81 dated 09.07.2019 under Sections 376(2)(f), 498-A and 506/34 IPC have been levelled by his *Bhabhi* wife of his elder brother Sandeep @ Bittu by alleging that the marriage between the prosecutrix and Sandeep @ Bittu was solemnized on 16.11.2017 and, thereafter, on account of matrimonial disaccord, the complainant left the matrimonial home on 21.10.2018. It is, thereafter, the present FIR has come about on 09.07.2019, whereby, the complainant alleged that on the intervening night of 12/13.10.2018 while she was at her matrimonial home, the accused defiled her against her wishes and, thereafter, she was threatened with the dire consequences.

Mr. Sandeep Gahlawat, counsel for the petitioner, *inter-alia* contends that the husband of the complainant had initially filed a divorce petition on 15.5.2019 after the wife had left her matrimonial home on 21.10.2018 and the FIR has been got registered on 09.07.2019 wherein the petitioner has been falsely implicated and that it is after inordinate delay of almost 08 months, the story has come about and there is no medical

evidence to support the averments of the FIR.

Mr. Baljinder Virk, DAG, Haryana assisted by ASI Anita and Mr. Naveen Kumar Jaglan has stoutly opposed the grant of the bail on the ground of heinousness of the offence and the fact that the prosecution sent written complaint on 14.06.2019 and that after due inquiry the case was got registered and thus, sought dismissal of the appeal.

Going through the submissions, it is conceded at the bar by the learned State counsel that all the accused except the petitioner have been found innocent in this case. Admittedly, the occurrence had taken place during the intervening night of 12/13.03.2018 and the first complaint has come about after 08 months with there is no medical evidence to support the stand of the petitioner. In the light of this background of matrimonial disaccord and there being no corroborative evidence at this stage to support the allegations of rape, it would be travesty of justice to send the petitioner behind the bars, together with the fact that culpability, if any, of the petitioner shall be determined at the trial which is not likely to be concluded in the near future. Therefore, in the event of arrest, the petitioner be released on *interim* bail to the satisfaction of Arresting/Investigating Officer. The petitioner shall, however, join the investigation as and when called for to do so and he shall abide by the conditions as envisaged under Section 438(2) Cr.P.C. Thereafter, will be

released on regular bail upon presentation of challan.

Disposed off.

October 24, 2019

(FATEH DEEP SINGH)

amit rana

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No