

CRM-M-33345-2019

Date of Decision : 26.09.2019

Tushant

.....Petitioner

versus

State of Haryana

....Respondent

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

Mr. Sarfraj Hussain, Advocate puts in appearance of his own on behalf of the complainant and filed memorandum of appearance which is taken on record.

This order shall dispose off anticipatory bail application filed by petitioner-Tushant under Section 438 Cr.P.C in a case bearing FIR No.401 dated 19.04.2019 filed under Sections 342/376/506 of the Indian Penal Code registered at Police Station Chandni Bagh, District Panipat.

The allegations against the accused/petitioner have been levelled by the complainant, a married lady, aged around 25 years. In her complaint, the complainant alleges that her husband and the petitioner were friends and the petitioner often used to visit their house and during the course of the same, the complainant as well as the petitioner have entered into a relationship which continued for four years and on the day of the occurrence, the accused has trespassed the house and on pointing out a knife at the complainant defiled her against her wishes leading to the registration of the present case.

Learned counsel for the petitioner *inter alia* contends that both the complainant and the petitioner were in a relationship and it was a consensual one, for which, reliance has been placed on 05 photographs (Annexure P-2) submitting that when the relations have gone sour, the present petition has been falsely foisted upon the petitioner.

On instructions from ASI Subhash, Poilce Station Chandni Bagh, Panipat, the learned State counsel assisted by learned counsel for the complainant have stoutly opposed the grant of bail in view of the heinousness of the offences and that the custodial interrogation is very much essential to recover more documents of this relationship.

Going through the submissions, apparently, both the complainant and the petitioner are grown up, mature and married

persons and the photographs placed on the record are strongly suggestive of the same that it was the consensual one. In light of the same, a debatable issue having arisen over the applicability of offence under Sections 376/342/506 of the Indian Penal Code which is subject to judicial adjudication and the culpability, if any, shall be determined by the Trial Court.

In view of the aforesaid, the present petition is allowed. Petitioner would appear before the Investigating Officer within 15 days from today. In the event of arrest, the petitioner shall be released on interim bail to the satisfaction of arresting/investigating officer till submission of report under section 173 Cr.P.C. (challan). The petitioner shall, however, join the investigation as and when called for and shall also abide by the conditions specified under Section 438 (2) Cr.P.C. Thereafter, petitioner will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

The petition stands disposed off.

26.09.2019

Neha

**(FATEH DEEP SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No