

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-33178 of 2019 (O&M)
Date of decision : August 26, 2019

Salim

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Arun Sharma, Advocate, for the petitioner

Mr. Baljinder Virk, DAG, Haryana for the State

Fateh Deep Singh, J. (Oral)

Petitioner Salim, a married man, eloped with a girl aged around 12 years daughter of the complainant on 3.1.2018 leading to the registration of the present case bearing FIR No. 1 dated 4.1.2018, under Sections 363, 366-A, 376 IPC and 4 of POCSO Act, 2012, Police Station Bapoli, District Panipat. Consequent upon recovery of the girl on 9.1.2018 she made statement before the Magistrate that she went to the lake side where the accused was present and they fled in a train to Kolkata and two months prior

thereto she was defiled in her house by the accused leading to his arrest, the same very day on 9.1.2018.

Mr. Arun Sharma, counsel for the petitioner has argued that the petitioner is behind the bars since a long time and as per the own stand of the victim she has volunteered into this relationship and went with the accused on her own and there is no medical evidence to corroborate the allegations of defilement.

Learned State counsel has forcefully opposed the bail on the grounds that the petitioner is a married man and has instigated and enticed the minor victim and took her away from the lawful guardianship of her parents and had also defiled her and if allowed bail, he might influence the witnesses at the trial.

In the light of what has been argued, admittedly the girl is around 12 years of age. In her statement under Section 164 Cr.P.C. before the learned Judicial Magistrate Ist Class, the girl has detailed how she was defiled by the accused. The element of the girl having gone on her own and that there is no medical evidence to corroborate the allegations are matters of trial as mere oral testimony of the victim is acceptable. The apprehension of the State that if allowed bail, the petitioner might stifle the trial is not unfounded. In view of heinousness of crime and seriousness of allegations no

ground for grant of bail is made out. The present petition as such stands dismissed.

The observations made herein above shall have no bearing on the merits of the case as these are purely for the disposal of the present bail application.

August 26, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No