

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

CRM M-38778 of 2019 (O&M)

Date of Decision: October 30, 2019

Sandeep Kumar

.....Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Mansur Ali, Advocate
for the petitioner.

Mr. Baljinder Virk, DAG, Haryana.

Mr. Dharam Pal, Advocate for
Mr. Vivek Khatri, Advocate
for the complainant.

FATEH DEEP SINGH, J. (Oral)

The brief facts that have come about in this first anticipatory bail under Section 438 Cr.P.C. are that initially a case was got registered by way of FIR 207 dated 09.07.2019 under Sections 376, 452 and 506 IPC against one Mahender Singh son of Hari Ram on the allegations of a married lady with two kids. It is alleged that said accused had trespassed into her

home at night and ravished her against her wishes. It was, subsequently, another complaint dated 06.08.2019 was moved by the same very prosecutrix, in which, she implicated petitioner-Sandeep Kumar leading to the registration of the present case bearing FIR No. 247 dated 19.08.2019 under Section 376, 452 and 506 IPC at Police Station Kasola, District Rewari and apprehending his arrest, the present petition has come about by the petitioner.

Learned counsel for the petitioner *inter alia* contends that since the allegations pertain to the same very date, time and place and same type of act and registration of her subsequent FIR is not maintainable and having come about belatedly as an afterthought entitled the petitioner for grant of bail and nothing is to be recovered at this belated stage.

Mr. Baljinder Virk, DAG, Haryana assisted by SI Sube Singh with all fairness concedes at the bar what has been canvassed by the counsel for the petitioner but has opposed the grant of bail on the ground of heinousness of the offence.

Appreciating the submissions, it is duly conceded at the bar that complainant happens to be a married lady with two kids aged about 25 years. In her first allegations against one Mahender Singh son of Hari Ram, she did not name the present petitioner as an accused and it is belatedly after a period for more than 1½ month of the first FIR, the present allegations

have come about and, therefore, a serious doubt creeps in the mind of the Court as to the truthfulness of the allegations and it would be travesty of justice to send the petitioner behind the bars, especially, when there is no medical evidence to support the case. Therefore, in the event of arrest, the petitioner be released on anticipatory bail to the satisfaction of Arresting/Investigating Officer. The petitioners shall, however, join the investigation as and when called for to do so and they 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 of.

October 30, 2019

amit rana

(FATEH DEEP SINGH)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No