

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-39213 of 2019 (O&M)
Date of decision : December 10, 2019

Mohan Lal @ Moni

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

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

Mr. Baljinder Virk, DAG, Haryana for the State

Fateh Deep Singh, J. (Oral)

Petitioner accused Mohan Lal @ Moni who is in custody in case FIR No. 109 dated 3.8.2019 under Sections 376(2), 506 IPC, Police Station Garhi, District Jind has sought regular bail.

The case was got registered by a married lady aged around 30 years alleging that since her husband was working out of the city, she developed illicit relations with the petitioner for the last two years. The complainant alleges that the accused had been threatening her with dire consequences and on that intimidation

used to defile her at his whims and fancies.

Learned counsel for the petitioner argues that the complainant happens to be a married mature lady and it was a consensual relationship for which reliance is sought to be placed on the photographs numbering five arguing that it was when the relations had gone sour the present case has been malafidely got registered.

Learned State counsel with all fairness concedes the facts so detailed by the petitioner side. However, the learned State counsel had opposed the bail on the grounds that if allowed bail, the petitioner might influence the witnesses.

The stand of the two sides irrefutably leads to inference that the complainant is a married lady and had developed relations with the petitioner which was purely consensual one. Thus, a debatable issue arises over the very applicability of offence under section 376 IPC which can only be adjudicated at the trial. The petitioner is behind the bars and the trial is not likely to be concluded in near future, no purpose will be served by retaining the petitioner in jail. Accordingly, he is ordered to be released on regular bail to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Jind.

The present petition stands disposed off accordingly.

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.

December 10, 2019

(Fateh Deep Singh)
Judge

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Whether speaking/reasoned ?

Yes/No

Whether Reportable ?

Yes/No