

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

**CRM M-40264 of 2019
Date of Decision: September 25, 2019**

Nitish Kumar

.....Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. J.P. Jangu, Advocate
for the petitioner.

Mr. Baljinder Virk, DAG, Haryana.

FATEH DEEP SINGH, J. (Oral)

The allegations against petitioner Nitish Kumar in this first regular bail application under Section 439 of Cr.P.C. moved in case FIR No.68 dated 30.05.2019 under Sections 376(2)(n) and 506 IPC registered at Police Station Women West Gurugram have been levelled by a girl aged around 19 years. In the allegations, the complainant Shivani Sharma alleges that it was in July 2017, she came in contact with the accused and they became friends and during the course of events, they

developed physical relations. It is alleged that the petitioner on pretext of marriage had been defiling her and, thereafter, refused to undergo his obligation of marriage. Hence, the present case was got registered on 30.05.2019 leading to the arrest of the petitioner on the very next day.

Learned counsel for the petitioner *inter alia* submits that the prosecutrix seems to be a grown up girl and had fallen into this relationship and has sought to debate the very applicability of offence under Section 376 IPC.

Mr. Baljinder Virk, DAG, Haryana learned State counsel on instructions from ASI Geeta though does not dispute the facts but has opposed the grant of bail on the ground of heinousness of the offence.

Going through the submissions of the two sides, it is the own stand of the prosecutrix that she is a major and grown up girl and remained in this relationship continuously for a period of more than 02 years and, thus the applicability of offence under Section 376(2)(n) IPC is a debatable issue and culpability, if any, of the petitioner shall be determined at the trial which is not likely to be concluded in the near future. This Court is of the opinion that it is a fit case for grant of bail. Accordingly, the petitioner is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate,

concerned.

However, it is made clear that anything observed herein shall not be construed as an expression on the merits of the case.

Disposed off.

September 25, 2019
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No