

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-41022 of 2019 (O&M)
Date of decision : November 07, 2019

Gurpreet Singh

....Petitioner

versus

State of Union Territory

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Anupam Bhanot, Advocate, for the petitioner

Mr. Amit K. Goyal, APP, UT Chandigarh with
SIK Vijay Kumar

Fateh Deep Singh, J. (Oral)

CRM-31480-2019

Since the application is in compliance with earlier order dated 27.9.2019, the same is allowed. Documents attached with the application are taken on record subject to just exceptions.

CRM-M-41022-2019

Accused-petitioner Gurpreet Singh who is in custody has come up in this first bail application under Section 439 Cr.P.C. in case FIR No. 172 dated 3.7.2019 under Sections 376(1), 506 IPC and Section 4 of the POCSO Act and challan presented under Sections 376(2)N, 506 IPC and Section 06 of POCSO Act, Police

Station Sector 34, Chandigarh.

The facts brought to the notice of this Court are that the present case was got registered on the statement of the victim, an un-married girl having date of birth 10.4.2001. In her complaint, complainant alleges that the accused who is from their neighbourhood took her to a house in Sector 45, Chandigarh and physically defiled her against her wishes and started blackmailing her. The accused tried to force the girl into more such instances and when she refused the victim was threatened with elimination of her brother leading to the registration of the present case and arrest of the accused.

Learned counsel for the petitioner inter-alia contends that the prosecutrix happens to be a major and it was a consensual relationship which has been falsely given tinge of rape and there is nothing supportive by way of medical evidence to corroborate all these allegations.

Learned State counsel has opposed the bail on the grounds that the investigations are still at preliminary stage and if allowed bail, the petitioner will influence the witnesses at the trial and that it was an act of blackmailing of a minor girl and therefore, in view of heinousness of the offence does not calls for bail otherwise

as well. The State has reiterated the claim that at the time of the first defilement the victim was minor.

The petitioner is a minor and allegations and counter-allegations as to the age of the victim in the light of the allegations in the FIR bear out that it was over a period of time the girl was blackmailed and forced into this defilement which was much prior to the registration of the present case and which can only be gone into at the time of trial. Merely because the girl and her mother has refused to undergo medical examination is no ground to refute the claim of rape. The girl in her stand throughout has levelled the allegations and how under threat and coercion the accused used to defile her against her wishes. In view of these allegations no cause to grant bail to the petitioner at this juncture is made out and bail application is dismissed at this stage.

November 07, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No