

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

CRM-M No.47307 of 2019

Date of decision: 16th November, 2019

Maruf Khan

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. G.C. Shahpuri, Advocate for the petitioner.

Mr. Baljinder S. Virk, Dy. Advocate General, Haryana
for the respondent/State.

FATEH DEEP SINGH, J. (ORAL)

Allegations against the petitioner Maruf Khan in this second regular bail application under Section 439 Cr.P.C. in case bearing FIR No.272 dated 28.05.2019 under Sections 376-2(N), 506 IPC pertaining to Police Station City Yamuna Nagar, have been levelled by a girl aged around 21 years, neighbour of the petitioner, alleging that she had been visiting house of the accused when his mother had fractured her leg and that on 22.12.2018 the accused had defiled her and thereafter had been showing her photographs to the complainant and under pretext of the same had been defiling her repeatedly and the last incident happened during intervening night of 27th and 28th of March, 2019 leading to registration of the present case.

Learned counsel for the petitioner Mr. G.C. Shahpuri, Advocate inter alia contends that the complainant is a minor and was in a

consensual relationship with the petitioner over a period of time and that the petitioner is in custody since a long time.

On behalf of the State, Mr. Baljinder Singh Virk, Dy. Advocate General, Haryana on instructions from ASI Sushma though has not displaced the facts but has stoutly opposed the grant of bail on the grounds of heinousness of the offence and seriousness of allegations, which disentitles him to any relief.

Appreciating the arguments of the two sides, in the light of own admission of the prosecutrix that it is spanning over more than one year they have been in a relationship and she being a major, thus the very question of applicability of offence of rape becomes highly debatable which can only be adjudicated at the trial. Culpability, if any, shall be determined at the trial which is not likely to conclude in the near future. In view thereof, this Court is of the opinion that no useful purpose will be served by keeping the petitioner in custody in the present case. Accordingly, he is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Yamuna Nagar. However, it is made clear that anything observed herein shall not be construed as an expression on the merits of the case.

The petition stands disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

November 16, 2019

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No