

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

CRM-M No.48386 of 2019

Date of decision: 20th November, 2019

Pawan Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Deepinder Brar, Advocate for the petitioner.

Mr. Pawan Sharda, Sr. Dy. Advocate General, Punjab
for the respondent/State.

Mr. Vikas Garg, Advocate for the complainant.

FATEH DEEP SINGH, J. (ORAL)

Petitioner Pawan Kumar, who is in custody in a case bearing FIR No.54 dated 20.03.2019 under Sections 376, 506, 380 IPC pertaining to Police Station Civil Lines, District Bathinda, has come up in this first regular bail under Section 439 Cr.P.C. before this Court. The present case was got registered on the statement of a deserted married lady with kids, alleging that after 16 years of her marriage she had renounced her husband and since last 6/7 years she came in contact with the petitioner and they started residing together and also started a business. It is alleged that the petitioner who is a bachelor on the pretext of entering into wedlock with the complainant defiled her and thereafter backed out of the same leading to registration of the present case.

Learned counsel for the petitioner Mr. Deepinder Brar, Advocate inter alia contends that the complainant happens to be a grown

up mature married woman who has left her previous husband and it is when the relations have gone sour the present allegations have come about fraudulently with a motivated cause.

On behalf of the State, Mr. Pawan Sharda, Sr. Dy. Advocate General, Punjab on instructions from HC Paramjit Singh with all fairness concedes to the facts brought to the notice of this Court by learned counsel for the petitioner, but has opposed the grant of bail on the grounds that if allowed bail the petitioner might stifle the trial.

Going through the submissions of the two sides what has been brought before this Court, both, the complainant as well as the petitioner are mature aged persons and admittedly in a relationship over a long period of time, thus a debatable issue arises over the very applicability of offence of rape. 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, Bathinda. 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 20, 2019

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No