

215

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

CRM-M-51882-2019

Date of Decision : 11.12.2019

Shubham

.....Petitioner

versus

State of Haryana

....Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Ms. Deipa Singh, Advocate
for the petitioner.

Ms. Trishanjali Sharma, AAG, Haryana
for the respondent-State.

FATEH DEEP SINGH, J. (ORAL)

The petitioner-Shubham has come up in this first regular bail application under Section 439 Cr.P.C. in a case bearing FIR No.213 dated 11.05.2019 under Section 346 of the Indian Penal Code (Sections 366, 376 and 506 of the Indian Penal Code added later on) registered at Police Station Pataudi, District Gurugram, got registered by Ashok Kumar, father of a girl, then aged around 21 ½ years. It is alleged by the complainant that on 11.05.2019, in the morning time, at around 10:30 AM, his daughter had gone to the

neighbourhood and, thereafter, never returned, leading to the registration of the present case. It is, subsequently, the girl was recovered on 12.07.2019 and her statement under Section 164 Cr.P.C. was recorded, wherein, she levelled allegations against the petitioner for having taken her along with him to various places. It is consequent, thereupon, the petitioner was arrested on 13.07.2019.

Learned counsel for the petitioner *inter alia* contends that the prosecutrix happens to be a grown up girl aged around 21 ½ years and had volunteered into this relationship and has sought to highlight the statement before the learned Judicial Magistrate and arguing that the petitioner is behind the bars for more than 05 months.

The learned State counsel, on instructions from ASI Surinder Singh, Police Station Chandni Bagh Panipat, has opposed the bail on the grounds of seriousness of the allegations and heinousness of the offences claiming that the prosecutrix was taken by the accused and had repeatedly defiled her.

Going through the submissions of the two sides, it is duly conceded by both the sides that the girl, at the time of alleged occurrence, was aged around 21 ½ years. The accused/petitioner and the prosecutrix, are from the same neighbourhood and in the statement under Section 164 Cr.P.C., the girl clearly enumerates that she had gone with the petitioner, first, to Surat, thereafter, to Panipat

and Chandigarh and stayed throughout with the petitioner entering into physical relations. Though, the prosecutrix claimed that she was threatened by the accused, by means of a syringe, however, the learned State counsel concedes that no such recovery has been effected.

Keeping in view the stand of the prosecutrix, who has stayed away along with the petitioner, voluntarily, for a long period of time, is itself suggestive the consensual relationship and, therefore, the present petition is allowed. The petitioner is behind the bars for more than 05 months, thus, culpability, if any, shall be determined at the trial. This Court is of the opinion that it would serve no useful purpose to further detain the petitioner in custody. Accordingly, he is ordered to be released on regular bail to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate/Ilalaqa Magistrate of the Court concerned.

The petition stands disposed off accordingly.

11.12.2019

Neha

**(FATEH DEEP SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No