

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-52446 of 2019 (O&M)
Date of decision : December 20, 2019

Kala Singh

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. P.S.Ahluwalia, Advocate, for the petitioner
Mr. Pawan Sharda, Sr. DAG Punjab for the State with
ASI Sukhdev Singh

Fateh Deep Singh, J. (Oral)

The allegations in this case have come from an unmarried girl aged around 20 years. In her complaint, the prosecutrix alleges that both his brothers had gone abroad through the petitioner who works as an Agent and during the course of time the petitioner started visiting the house of the complainant. On the pretext of sending the prosecutrix to a foreign country, the accused petitioner is alleged to have allured her and took her to Passport Office at Amritsar for preparing her file. On 2.7.2018 it is alleged that the accused took the girl on motorcycle for this purpose and

after the work was over, offered the girl tea/water while sitting at a Dhaba near the Kachehri Chowk. It is thereafter, the accused defiled her against her wishes after threatening her and initially the girl kept mum but subsequently disclosed the fact to her mother when she was five months pregnant leading to the registration of the present case.

Learned counsel for the petitioner inter-alia contends that the alleged occurrence has taken place on 2.7.2018 and the FIR has come about on 5.12.2018 after more than five months. It is contended that the girl inspite of being aware of her pregnancy did not raise any allegations and is rather corroborative the fact that she was a consenting party. It is submitted that the girl is a major and the very story of the prosecution that she was ravaged at Dhabha in the Kachehri Chowk is highly unpalusible and the girl has refused to undergo DNA test to determine the parentage of embryo and therefore it cannot be ascertained that the petitioner is biological father of the unborn child.

Learned State counsel on instructions from ASI Sukhdev Singh has strongly opposed the bail on the grounds that the accused taking undue advantage of the girl had been defiling her and impregnated her and thus, the allegations are of heinous nature which disentitles the petitioner to any relief.

Going through the submissions as is there on the records the girl is major aged around 20 years. The medical record shows first signs of likely pregnancy have come about by way of LMP on 21.6.2018. The same is illustrative of the fact that from 21.6.2018 till the filing of the FIR, no action was ever initiated and further as has been submitted, the girl has refused to undergo DNA analysis. The petitioner is behind the bars since a long time. The story of the prosecution as to the place where the offence has taken place certainly improbabilizes to some extent the allegations. In the light of such peculiar circumstances which would only be upon trial culpability could be determined. In the light of the same the present petition stands allowed. The petitioner is ordered to be released on regular bail to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Amritsar.

The present petition stands disposed off accordingly.

The observations made herein above shall have no bearing on the merits of the case as these are purely for the disposal of the present bail application.

December 20, 2019

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**(Fateh Deep Singh)
Judge**

Whether speaking/reasoned ?

Yes/No

Whether Reportable ?

Yes/No