

CRM-M-53098-2019

Date of Decision : 17.12.2019

Sukhchain Ram

.....Petitioner

versus

State of Punjab

....Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH**Present:** Mr. Deepak Aggarwal, Advocate
for the petitioner.Mr. Pawan Sharda, Senior DAG, Punjab
for the respondent-State.**FATEH DEEP SINGH, J. (ORAL)**

The allegations against the petitioner-Sukhchain Ram, in this first regular bail application filed under Section 439 Cr.P.C. in a case bearing FIR No.64 dated 04.07.2019 under Sections 376, 354-C, 506 and 120-B of the Indian Penal code and Section 67-A of the Information Technology (Amendment) Act, 2008 registered at Police Station Khamanon, District Fatehgarh Sahib, have come about from a married woman, aged around 26 years. The complainant alleges that in respect of her marriage on 19.03.2015, she was not bestowed

with a child and the petitioner, who happens to be from the neighbourhood, was on visiting terms in their house. It is alleged that on 09.06.2019, while she was alone in the home, the petitioner entered the house and caught hold of her and defiled her against her wishes, leading to the registration of the present case.

Learned counsel for the petitioner *inter alia* contends that both the petitioner as well as the complainant are grown up married mature persons and were in a relationship, for which, reliance has sought to be placed on the photographs (Annexure P-1-numbering-09) submitting that it was a mere consensual relationship.

The learned State counsel, on instructions from SI Sandeep Kaur, Police Station Khamanon, District Fatehgarh Sahib, with all fairness, does not displace the facts that have been canvassed before this Court by learned counsel for the petitioner.

As is there before the Court, the photographs (numbering-09) placed on the records and the own stand of the prosecution that both the petitioner and the complainant, are major and mature married persons and, thus, a debatable issue arises over the applicability of offence under Section 376 of the Indian Penal Code.

In light of the above, the present petition is allowed. The petitioner is behind the bars since long, 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/Illaqqa Magistrate of the Court concerned.

The petition stands disposed off accordingly.

17.12.2019
Neha

(FATEH DEEP SINGH)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No