

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M-61605 of 2018

Date of Decision: February 08, 2019

Kuldeep Singh

.....Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Amit Chaudhary, Advocate
for the petitioner.

Mr. Baljinder Virk, DAG, Haryana.

FATEH DEEP SINGH, J. (Oral)

This order shall dispose of first regular bail application of accused-petitioner Kuldeep Singh under Section 439 Cr.P.C. filed in case FIR No. 340 dated 29.08.2018 under Sections 363 and 376(2)(n) IPC Police Station Sadar Fatehabad, District Mansa.

The brief facts brought to the notice of this Court are that the present case was got registered on the statement of Baldev Singh father of the girl admittedly aged around 19 years. In his statement, the complainant alleged that the accused/petitioner, who happens to be the real Jija having married elder sister of the victim allured her about one

year ago and, thereafter, defiled her which lead to the arrest of the petitioner upon registration of the case on 18.09.2018.

Learned counsel for the petitioner at the very onset of his submissions has placed reliance on Annexure P-1 statement of the victim whereby she has shown her resolve under Section 161 Cr.P.C. dated 01.09.2018 absolving the accused and stating that on account of her dispute with the parents she has left her parents on her own and that too she was never defiled by the accused. The counsel has placed reliance at report under Section 173 Cr.P.C. to drive home the point to that effect as well as the statement of the complainant Annexure P-2 arguing that admittedly there is no evidence against the petitioner to link with the commission of any offence and that there is nothing by way of medical examination to corroborate the allegations of the prosecution.

Mr. Baljinder Virk, DAG, Haryana on instructions ASI Rameshwar fairly concedes at the bar the facts brought to the notice of this Court also admitting that nothing concrete has come in the medico legal examination of the victim but has opposed the grant of bail on the ground that heinousness of offence and seriousness of the allegations.

Appreciating the submissions admittedly the victim is a major and her dithering stand throughout the investigation and that too of the complainant father, a debatable issue arises over the applicability of offence under Sections 363 and 376 (2) IPC and which

can only be adjudicated at the time of trial. Since the petitioner is behind the bars, it would be the travesty of justice by the keeping him behind the bars together with the fact that culpability, if any, of the petitioner shall be determined at the trial which is not likely to be concluded in the near future. This Court is of the opinion that it is a fit case for grant of bail. Accordingly, the petitioner is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, concerned. However, it is made clear that anything observed herein shall not be construed as an expression on the merits of the case.

Disposed off.

February 08, 2019
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No