

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc.-M No. 22201 of 2020 (O&M)
Date of decision : August 10, 2020

Javed Hussain

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Balvinder Sangwan, Advocate, for the petitioner

Mr. Baljinder Virk, DAG Haryana for the State

Fateh Deep Singh, J. (Oral)

The matter has been taken up through Video-conferencing on account of outbreak of pandemic COVID-19.

Notice of motion.

Mr. Baljinder Virk, DAG Haryana accepts notice and puts in appearance on behalf of the State.

Petitioner Javed Hussain accused in case FIR No. 16 dated 27.1.2020 under Section 376(2)(n) IPC, Police Station Old Women Faridabad (now Central Faridabad) which was got registered by an abandoned lady aged 33 years with two minor kids.

As per the allegations while the prosecutrix used to go to Gym, she came in contact with the petitioner and which subsequently developed in physical relationship. The complainant claims that since June 3, 2019 till October, 2019 they carried on with this relationship on the fraudulent pretext of the petitioner that he will enter into wedlock with her and thereafter he backed out of this.

Learned counsel for the petitioner inter-alia contends that the petitioner is seven years junior in age to the complainant who is an aged mature educated lady with two kids and has sought to refute the allegations of rape or any fraudulent pretext of marriage submitting that there is no substantial evidence including the medical to show the offence of rape and has sought to submit that since July, 2019, the parties have no relationship whatsoever.

Learned State counsel though does not displaces the facts but has opposed the bail on the grounds of heinousness of offence.

Going through the submissions, admittedly the prosecutrix happens to be an educated deserted mature lady with two kids. As per the allegations, while going to the Gym she entered into relationship with the petitioner and volunteered to the same which relationship continued for more than two years. In the light of

such a situation, it would be quite difficult in the absence of any medical evidence to ascertain the criminality in this relationship and which is likely to be adjudicated at the time of trial. No useful purpose will be served by sending the petitioner behind the bars and nothing is to be recovered from him.

In view of the aforesaid, the present petition is allowed. In the event of arrest, the petitioner shall be released on interim bail to the satisfaction of arresting/investigating officer till submission of report under section 173 Cr.P.C. (challan). The petitioner shall, however, join the investigation as and when called for and shall also abide by the conditions specified under section 438 (2) Cr.P.C. Thereafter, on presentation of challan, the petitioner will be permitted to furnish regular bail bonds to the satisfaction of the trial Court. Presently, the petitioner is directed to join investigation within 15 days of the receipt of the copy of order.

The present petition stands disposed of.

August 10, 2020
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No