

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

**CRM No. M-45261 of 2019 (O&M)**  
**Date of decision : October 28, 2020**

Sumit Kumar

....Petitioner

versus

State of Haryana

....Respondent

**Coram: Hon'ble Mr. Justice Fateh Deep Singh**

Present : Mr. Sukhjit Singh, Advocate, for the petitioner  
Mr. Baljinder Virk, DAG Haryana

**Fateh Deep Singh, J. (Oral)**

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

Accused petitioner Sumit Kumar has come up in this second regular bail application in case FIR No. 388 dated 31.5.2019 under Sections 328, 376(2)(n), 34 IPC, Police Station Model Town, Panipat, the first one having been dismissed vide orders dated 27.8.2019.

The present case was got registered on the complaint of a girl claiming herself to be aged around 18 years and student of

B.Com. 1st year. In her complaint, the complainant alleges that the accused and his mother often used to visit their house being their relatives and during the course of the same she became friendly with the accused petitioner and during the passage of time, the accused gained her trust. It is alleged that the accused on some fraudulent pretext took her to his home and offered her cold drink laced with intoxicant and on consuming the same became unwell during which the accused defiled her against her wishes and took her photographs. The allegations further hover around the claim of the girl that on the basis of these photographs the accused threatened her and defiled her repeatedly leading to the registration of the present case.

Learned counsel for the petitioner inter alia contends that as per the own claim of the girl, she was major at the time of occurrence and so was the boy, the present petitioner. The counsel has drawn attention of the Court to the photographs Annexure P/2 in all numbering three to hammer home the point that the couple volunteered and got married before the Deity and has also placed on record marriage certificate Annexure P/5 to hammer home the point that it was solemnization of the marriage between the couple and the present case is counter blast to the same.

Learned State counsel does not displace the facts but has opposed the bail on the grounds that no fresh ground is made out to allow bail.

Appreciating the submissions, the petitioner is in custody since 24.6.2019 and the photographs placed on the record Annexure P/2 as well as marriage certificate Annexure P/5 are illustrative that it was a consensual relationship between two majors. Thus, the very applicability of offence under Sections 328, 376(2)(n), 34 IPC are debatable issues which can only be decided at the time of trial, which is not likely to be concluded in near future and thus, no purpose will be served by retaining the petitioner in jail. Accordingly, he is ordered to be released on regular bail to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, concerned.

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.

October 28, 2020  
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( Fateh Deep Singh )  
Judge

*Whether speaking/reasoned ?*  
*Whether Reportable ?*

Yes/No  
Yes/No