

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

CRM-M- 21782 of 2015

Date of Decision: 13.07.2015

Sonu

... Petitioner

Versus

State of Haryana

... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Aditya Sanghi, Advocate
for the petitioner.

Mr. Yashwinder Singh, DAG, Haryana.

RAJ MOHAN SINGH, J. (Oral)

Petitioner seeks regular bail in case bearing FIR No.18 dated 07.02.2015, under Sections 343/346/366/376(2) (N)/376 IPC, Police Station Julana, District Jind.

The FIR came to be registered on the statement of Pala Ram father of the prosecutrix. Prosecutrix is a major and is a computer teacher. Recital in the FIR brings out that daughter of the complainant told him that she had gone with his friend and she will tell everything on her return. The statement of prosecutrix was recorded under Section 164 Cr.P.C on 05.03.2015, wherein she has stated that she visited Lucknow, Delhi, Bangalore, Maisoor, Ooty, Kunoor. Allegations of forcibly committing rape was also made at Lucknow. While coming from these places at Delhi, petitioner performed marriage with the prosecutrix on 19.02.2015. Learned counsel for the petitioner states that prosecutrix alleged incriminating things against Sapna daughter of Bharat Singh, Monu son of Satender and Sonu son of Vinod. However, during investigation, the prosecutrix gave an affidavit on the basis of which aforesaid Monu, Sapna and Sonu were found to be innocent. According to learned

counsel, prosecutrix remained in the company of petitioner at numerous places for more than one and half months and was a consenting party throughout even despite alleged rape committed at Lucknow without any hue and cry. Photographs Annexure P-4 have been relied to show that prosecutrix was never in the state of intoxication, rather she enjoyed every moment of her association with the petitioner. On the other hand, learned State counsel submits that culpability of petitioner falls within the four corners of offence under Section 375 IPC (fourthly). The aforesaid arguments could have reasonable explanation in the context of married-man, when committing rape upon a female with her consent for the first time. In the instant case, the prosecutrix remained consenting party on every place, before the alleged marriage at Delhi. Her visit to Lucknow, Delhi, Bangalore, Maisoor, Ooti and Kunnor along with petitioner is prior to 19.02.2015 and she was consenting all along. The alleged factum of second marriage would attract violation of Hindu Marriage Act or offence of bigamy or fraud under penal provisions.

The culpability in terms of Section 375 IPC (fourthly) would be debatable issue at trial. Petitioner is in custody since 11.03.2015. Challan stands presented.

In view of aforesaid, petitioner is ordered to be released on bail subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of Chief Judicial Magistrate, Jind.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

July 13, 2015
prince