

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

CRM-M-31283-2015

Date of decision: 18.09.2015

Vishav Singh Parmar

... Petitioner

Vs.

UT of Chandigarh

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. K.S. Dhillon, Advocate
for the petitioner.

Mr. A.S. Sullar, Addl. PP, UT Chandigarh.

RAMESHWAR SINGH MALIK, J. (ORAL)

Petitioner seeks bail pending trial in FIR No.21 dated 12.01.2015 under Sections 376, 420 of the Indian Penal Code ('IPC' for short), registered at Police Station Sector-26, Chandigarh.

Learned counsel for the petitioner refers to the statement suffered by the prosecutrix under Section 164 Cr.P.C. at Annexure P-4, to contend that the prosecutrix as well as the petitioner were close friends since April, 2011. Prosecutrix was a mature person of the age of 28 years. The registration of FIR was the result of some misunderstanding between both of them. In this view of the matter, offence under Section 376 IPC would not be made out against the petitioner. He prays for allowing the present petition.

On the other hand, learned counsel for the State (U.T., Chandigarh), on instructions from ASI Chander Mukhi, Police Station Sector-26, Chandigarh, submits that petitioner has been committing the offence under Section 376 IPC on the prosecutrix-complainant for a long

period, giving her promise of marriage. He further submits that in such a situation, offence under Section 376 IPC would be made out against the petitioner. He also submits that since most of the prosecution witnesses have also been examined, petitioner is not entitled for bail, at this stage. He prays for dismissal of the present petition.

Having heard the learned counsel for the parties and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that keeping in view the totality of facts and circumstances of the case, particularly the statement suffered by the prosecutrix herself under Section 164 Cr.P.C. at Annexure P-4, petitioner has been found entitled for bail pending trial. It is so said because petitioner and the prosecutrix were closely known to each other for the last about four years, before registration of the FIR. In such a situation, it will be a debatable issue for consideration of the learned trial Court, as to whether the petitioner, as a matter of fact, committed any offence under Section 376 IPC or not.

In view of the above and without commenting anything further on merits at this stage, lest it should prejudice the rights of either of the parties, present petition is allowed. Petitioner is directed to be released on bail pending trial on his furnishing adequate bail bonds/surety bonds to the satisfaction of learned trial Court.

Disposed of, accordingly.

[RAMESHWAR SINGH MALIK]
JUDGE

18.09.2015
vishnu