

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-21374 of 2016

Date of decision : 30.06.2016

Gurmeet Singh

... Petitioner

versus

State of Punjab

... Respondent

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Malkeet Singh, Advocate for the petitioner

Mr. Luvinder Sofat, AAG Punjab

Mr. Vivek Suri, Advocate for the complainant

ANITA CHAUDHRY, J. (ORAL)

The petitioner is seeking regular bail in FIR No. 104 dated 12.09.2015 registered at Police Station Phase XI, District SAS Nagar under Sections 376, 420, 406 IPC.

Learned counsel for the petitioner contends that the complaint has been lodged by the complainant who had faced several cases under the Immoral Trafficking Prevention Act and she has been giving different names. He further urges that in January 2015 son of the complainant had lodged a complaint that he had business dealings with the petitioner and there was a dispute relating to the land and few months later the complainant had lodged this report. It was urged that the complainant was 45 years old and was married and had two children and she had not obtained divorce and the FIR had been lodged only to blackmail him. It was urged that there was no MLR and there was no relationship after 2014 and the petitioner had gone back to his village and had got married. It was urged that the complainant was mature enough to understand the consequences and it was a case of consent. It was urged that Section 377 IPC had been added and later she procured a medical report and the petitioner is in custody since February 2016 and challan has been presented and the trial would take time. He further states that petitioner was not working as Ahlmad and he was clerk with a lawyer in the District Courts earlier and the petitioner was employed as a driver by the complainant and she had entered into relationship with him.

Learned counsel for the complainant has put in appearance and it was

urged that the complainant had taken a mutual divorce and she had parted with her husband and that was her second marriage though there is no decree. The counsel refers to the information received under the RTI Act. It was urged that though name of the petitioner was mentioned in para 1 but there was no trial and the second case ended in acquittal and the name of the petitioner does not figure in para 3 or 4. It was urged that the petitioner had been misusing her and had taken money and had taken the jewellery on the pretext that the money would be invested. It was urged that the petitioner had applied for anticipatory bail and he had been stated that he wanted to settle and later backed out and his application for anticipatory bail was rejected.

Learned State counsel submits that the trial against the complainant had ended in acquittal.

The petitioner had filed an application under the RTI Act. According to which one case under the Immoral Trafficking Prevention Act was registered where none of the accused could be arrested and they were declared proclaimed offender. The name of the complainant figures in the list of accused. The second case mentioned in the list ended in acquittal. There are no allegations that there were any physical contact between the petitioner and the complainant after the petitioner had left for his village in 2014. The MLR was conducted some time towards the end of 2015. Spermatozoa was found. No DNA test had been carried out. Challan has been presented. There are financial disputes. The complainant has been unable to explain her source of income here but it would be a matter of trial.

Without commenting anything on the merits of the case and considering the fact that the trial will take time to conclude, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing adequate bonds to the satisfaction of the trial Court/Duty Magistrate.

June 30, 2016

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(ANITA CHAUDHARY)
JUDGE