

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-12695 of 2019

Date of Decision: 10.04.2019

Randeep Singh

...Petitioner(s)

Versus

State of UT Chandigarh

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Pradeep Sharma, Advocate
for the petitioner.

Mr. Manish Jain, APP, UT, Chandigarh.

Mr. Satbir Singh Gill, Advocate
for the complainant.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner in case FIR No.0021 dated 16.01.2019 under Section 376 IPC registered at Police Station Sector 36, Chandigarh.

The aforesaid FIR was registered at the behest of the prosecutrix to the effect that the petitioner had sent a friend request to her on Facebook which she accepted. Thereafter, the petitioner started coming to her workplace. After some time, he proposed her for marriage, which was accepted by the prosecutrix. Earlier at two different times, police had

made enquiry from them. The petitioner hosted a party on her birthday in a hotel, saying that his friend has a hotel at Doaba Kajeri which is a safe place, as otherwise it is possible that the police may again disturb them. Believing him, the prosecutrix accompanied the petitioner to the hotel, where he offered cold drink to her. However, after having the cold drink, the prosecutrix felt unconscious and taking advantage of the situation, the petitioner established physical relations with her, to which she objected but the petitioner promised her to marry. On 20.12.2017, on the birthday of the petitioner, she refused to accompany him to the hotel, to which, he threatened that he will show their objectionable pictures to everybody and therefore, she accompanied him. In the month of May, she came to know that the talks of marriage of the petitioner were going on and the petitioner had stopped contacting her. Thereafter, the petitioner sent a message to the prosecutrix through some friend that no such talk about his marriage is in process. The petitioner asked the prosecutrix to meet him on 28.06.2018, on which date, he again established forcible physical relations with her. But instead of getting married with the prosecutrix, he solemnised marriage with some other girl.

Learned counsel for the petitioner has argued that the petitioner is in custody since 16.01.2019. The allegation against the petitioner is that he has established physical relations with the prosecutrix with a promise that he will solemnize marriage with her, but instead of marrying her, he has solemnised marriage with some other girl. The petitioner had never made any promise about marriage with prosecutrix.

The allegation of rape is totally false. The relationship between the petitioner and the complainant was a consensual one.

On the other hand, learned counsel for the complainant has argued that the petitioner has committed rape upon the prosecutrix against her wishes, as he had taken her to a hotel on her birthday and offered cold drink and after consuming it, she felt unconscious and taking advantage of the situation, he established physical relations with her. Thereafter, on 20.12.2017 and 28.06.2018 also, he again committed rape upon her under the threat that he has their objectionable pictures with him and he will make those pictures viral.

Learned APP, UT, Chandigarh has supported the arguments so raised on behalf of the complainant. He has submitted that no witness has been examined in the case so far.

I have heard learned counsel for the parties.

The petitioner and the prosecutrix knew each other since 2015. The allegation that he established physical relations with the prosecutrix on the plea that he will marry her, is yet to be established during trial. It is not the case where sexual relationship was established on one occasion. Rather, the sexual relationship established on three different occasions. Since the petitioner has solemnised marriage with some other girl, it is, thereafter, the FIR in question has been registered.

Having regard to the judgment passed by the Apex Court in the case of **Dr. Dhruvaram Murlidhar Sonar Vs. State of Maharashtra and others 2019(1) RCR (Criminal) 674** and considering the fact that the petitioner is in custody since 16.01.2019 and the parties knew each other

since 2015, this Court finds that it is during trial the culpability of the petitioner would be established. Therefore, this Court is of the opinion that the petitioner deserves to be admitted on regular bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of his bail bonds/surety bonds to the satisfaction of trial Court.

However, it is made clear that the observations made hereinabove shall not be construed as any expression on the merits of the case.

Needless to say that the petitioner shall not extend any threat or influence any of the witnesses, including the prosecutrix in any manner. In case the petitioner issues any threat or influence any of the witnesses, the prosecution shall be at liberty to seek cancellation of his bail.

April 10, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No