

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-19653 of 2019 (O&M)
Date of decision : May 20, 2019

Sajal Gupta

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. RS Rai, Senior Advocate with
Ms. Amanpreet Kaur Sabharwal, Advocate, for the
petitioner

Mr. Amrik Narwal, DAG Haryana for the State

Ms. Munisha Gandhi, Senior Advocate with
Mr. Viraj Gandhi, Advocate, for the complainant

Fateh Deep Singh, J. (Oral)

This anticipatory bail has come about by accused-
petitioner Sajal Gupta in case bearing FIR No. 52 dated 2.4.2019,
under Sections 120-B, 376, 420, 498-A & 506 IPC, Police Station
Women Panchkula.

The present case was got registered on the complaint of

complainant a qualified Chartered Accountant aged around 30 years alleging that the accused who too at that time was studying with the complainant for the course of Chartered Accountancy became friendly with the complainant around December, 2010. It was during the course of events the two developed intimacy on account of love for each other and it is stated by the complainant that the accused showed his inclination to marry the complainant and to settle down in life with her after he maintains to secure a good job and on this pretext developed physical relations with the complainant. The complainant had been pestering the petitioner to enter into a wedlock as she has been taken in for a ride by the accused and the latter had been roaming with the complainant at various religious places but every time would delay the matter and in the meanwhile carry on with the fulfillment of physical needs with the complainant. When the accused failed to undergo his promise a complaint was moved by the complainant and faced with a situation of criminal prosecution the accused gave an undertaking to marry her and filed affidavit to that effect and both of them married. It is alleged by the complainant that the accused failed to carry on her matrimonial obligations with her and rather to tide over the allegations levelled by her had done so as facade and never wanted to do so and instead had been physically

and mentally abusing the complainant. It is thereafter the present case was got registered.

Mr. RS Rai, learned senior counsel for the petitioner has argued that the petitioner and the complainant were educated grown up mature persons and remained in a relationship since the year 2010 and it is thereafter they have married each other and on account of matrimonial disaccord due to differences the present case has been got registered by the complainant levelling allegations of rape which do not subsist at this juncture when the allegations pertained to incident prior to their marriage. It is argued that since nothing is to be recovered , joining of the investigations would suffice the purpose.

Learned State counsel as well as counsel for the complainant have vociferously opposed the grant of the relief on the grounds that the own admission of the husband that he has filed a petition under section 12 of the Hindu Marriage Act, 1955 for annulment of the marriage and that it was after the complaint to the police by the complainant that the petitioner had given an undertaking to marry the complainant and gave affidavits to this effect but did not fulfill the obligations of the marriage and rather it was nothing short of a ploy to circumvent the registration of the

criminal cases is rather reflective of another element of falsehood and the deceitful petitioner. Learned counsel for the complainant has also cited ruling by Hon'ble Supreme Court in **Anurag Soni vs State of Chhatisgarh, Criminal Appeal No. 629 of 2019, decided on 9.4.2019.**

Considering the submissions of the two sides in the light of the records what one could gather is that after the petitioner has violated the complainant and to undo the effects of her complaint had given assurance and written undertaking to marry the complainant and after even doing so did not fulfill the obligations arising out of such a sacrosanct relationship. No doubt the petitioner as well as the complainant at the time were major educated and gainfully employed and could understand the fall out of their physical intimacy. The fact that the petitioner had as per the arguments of his counsel entered into a wedlock on 15.11.2018 with the complainant and as is there on 4.2.2019 had filed the petition for annulment of this marriage is in itself reflective of what was at the back of the mind of the petitioner who having initially defiled the complainant. Faced with the consequence of his prosecution had fraudulently undergone this ritual of marriage and in his annulment petition had claimed that it was a live-in-relationship and denied having ever entered into

physical relationship are rather illustrative of the desperation of the petitioner to wriggle out of this. It is abundantly much in evidence that the poor complainant lured into this by the petitioner by deceit promise of marriage and after having fulfilled his physical needs has tried to dump the poor lady absolving himself of all the obligations rather weighs heavily in the mind of this Court as to the conduct of the petitioner being not above board. The custodial interrogation of the petitioner is very much necessary. Finding no merit in the present petition, the same stands dismissed.

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.

May 20, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No