

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-45319-2018 (O&M)
Date of Decision:-4.12.2019

Anjam Marhia @ Sanju

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Ms. Sukhpreet Kaur, Advocate for the petitioner.

Ms. Rashmi Attri, Assistant Advocate General, Punjab,
assisted by ASI Ram Kumar.

The complainant alongwith her father with
Mr. Satbir Rathore, Advocate.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.57 dated 24.5.2018 at Police Station Nurpur Bedi, District Rupnagar under Section 376 of Indian Penal Code.
2. The FIR was lodged at the instance of victim aged about 21 years, wherein it has been alleged that she is studying in B.A. (Second Year). It is alleged that Anjam Marhia @ Sanju (petitioner), who is son of complainant's aunt's sister used to visit complainant's aunt. Said Anjam Marhia @ Sanju was serving Army and started talking to the complainant and held out a promise of marrying her. It is alleged that the complainant and the petitioner fell in love.

It is alleged that on 17.5.2018, the petitioner took her to a room in a hotel and developed forcible physical relations with her and thereafter left her at her village while stating that he will talk to members of the family regarding their marriage. It is further stated therein that even subsequently he continued having physical relations with the complainant, but later he flatly refused to solemnize marriage with the complainant.

3. During pendency of the petition, it had been represented on behalf of the petitioner that he is willing to marry the prosecutrix. However, today the prosecutrix is present in person alongwith her father and has point blank stated that she does not wish to solemnize marriage with the petitioner.
4. The learned counsel for the petitioner has submitted that a false FIR has been lodged by the prosecutrix and that a perusal of the FIR itself would show that the complainant had been having physical relations with the petitioner out of her free will but later on account of some differences, the present FIR was lodged. The learned counsel for the petitioner has submitted that the petitioner is still ready and willing to solemnize marriage with the complainant and in order to show his *bona fide* he is willing to pay an amount of ₹1 lakh to the complainant as well.
5. Opposing the petition, the learned State counsel has submitted that since it is a case where the petitioner developed physical relations on the basis of a deception by holding out a false promise of marriage, no case for grant of bail is made out.
6. I have considered rival submissions addressed before this Court.
7. Keeping in view the age of prosecutrix, it will certainly be debatable as to whether it is a case of consensual physical relations or as to whether the

prosecutrix was deceived into maintaining such relations with the petitioner.

In any case, since the petitioner has already joined investigation, his custodial interrogation is not warranted. The petition, as such, is accepted and the interim directions issued by this Court vide order dated 12.10.2018 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

8. Keeping in view the offer made by petitioner, the petitioner is directed to pay an amount of ₹1 lakh to the prosecutrix/complainant within a period of two months from today, which may be paid to the prosecutrix/complainant either by way of demand draft or be given to the prosecutrix/complainant directly or be deposited in her bank account through RTGS or be deposited in the trial Court with notice to the prosecutrix/complainant, which in case of deposit, may be withdrawn by the prosecutrix/complainant.
9. It is made clear that in case the aforesaid amount is not paid, it shall be open to the prosecution to move an application for cancellation of bail.

4.12.2019

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No