

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

CRM-M-32231-2019 (O&M)
Date of Decision:-30.10.2019

Tarun Kumar ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Vivek Khatri, Advocate for the petitioner.

Mr. Ashok Singh Choudhary, Addl. Advocate General, Haryana,
assisted by ASI Dhan Raj.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.161 dated 19.3.2019 at Police Station Palam Vihar, Gurugram, District Gurugram under Sections 376(2)(n) and 315 of Indian Penal Code.
2. The FIR was lodged at the instance of the prosecutrix, wherein it has been alleged that she is working as a Staff Nurse in Metro Hospital, Palam Vihar. It is alleged that while she was working in Vatika Hospital, Badshahpur in the year 2016, she used to visit Swastic Hospital, where she came in contact with Dr. Tarun and became friends. It is alleged that Tarun proposed to marry her and she agreed to the said proposal and they started residing together and also developed physical relations and they continued in this relationship for

about two years, during the course of which she also became pregnant thrice but the pregnancy was got terminated. It is alleged that although she asked the petitioner several times for solemnizing marriage, but he kept on dilly-dallying the matter and subsequently even vacated the room where he had been residing and was not even taking calls of the complainant and switched-off his phone.

3. The learned counsel for the petitioner has submitted that it is a case where the complainant is a matured lady and had voluntarily established physical relations with the petitioner and subsequently when some differences arose amongst them she had chosen to lodge the present FIR. It has further been submitted that, in any case, challan already stands presented and infact the prosecutrix has also been examined during the course of trial, therefore, no useful purpose would be served by further detaining the petitioner.
4. Opposing the petition, the learned State counsel has submitted that since the petitioner had established physical relations while holding out a false promise of marriage, no case for grant of bail is made out. It has, however, been informed that the petitioner has been behind bars since the last about eight months.
5. Having regard to the nature of allegations, it will certainly be debatable as to whether the present case would fall within the definition of 'rape' as it *prima facie* appears to be a case of consensual physical relations. In any case, since the petitioner has been behind bars since the last about eight months and prosecutrix already stands examined, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and it is ordered that the petitioner is ordered to be released on bail on his furnishing

bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

6. It is, however, made clear that none of the observations made above shall be construed to be an expression on merits of the main case.

30.10.2019

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No