

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

CRM-M-35254-2019 (O&M)
Date of Decision:-2.9.2019

Narender Kumar ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Tushar Gautam, Advocate for the petitioner.

Mr. Ashok Singh Choudhary, Addl. Advocate General, Haryana.

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.53 dated 21.6.2019 at Police Station Palwal, District Palwal, Haryana under Sections 376 and 344 of Indian Penal Code.
2. The FIR was registered at the instance of the prosecutrix, wherein it has been alleged that she was earlier married to one Yogesh but since her husband was a drunkard, there used to remain a dispute between them and ultimately she returned back to her parental home about 1½ years back. It is alleged that after coming back she got acquainted with the petitioner Narender Kumar and started meeting him quite often. It is further stated therein that on 10.12.2018, Narender Kumar asked her to come to his house and when she went there he raped her while holding out a representation that he would

solemnize marriage with her. It is further stated therein that the aforesaid Narender Kumar kept on having physical relations with her for about eight months by confining her in a room. Later she came to know that infact Narender was a divorcee and she escaped from there and came to her house and informed her parents about the ordeal and also told them that she had been kept confined by Narender Kumar in a room.

3. The learned counsel for the petitioner has submitted that the prosecutrix had been residing with the petitioner out of her own volition and free will and that subsequently when there arose some dispute between them, the present FIR has been lodged against him. The learned counsel has also drawn the attention of this Court to various photographs annexed with the petition showing the petitioner and the prosecutrix together attending various functions. He has also referred to certain receipts of government and private hospitals, wherein the prosecutrix has disclosed her husband's name as Narender i.e. the present petitioner.
4. Opposing the petition, the learned State counsel has submitted that since specific allegations have been levelled against the petitioner, no case for grant of bail is made out. It has, however, been informed that the investigation is complete and challan has already been presented.
5. Having regard to the facts and circumstances of the case and while bearing in mind the fact that the prosecutrix is a mature lady and had apparently established physical relations with the petitioner and had resided with him for about eight months, it will certainly be debatable as to whether the said fact of physical relations between them can be said to be a rape or not. In any case, since the challan has already been presented, further detention of the

petitioner would not serve any useful purpose. The petition, as such, is accepted and the petitioner Narender Kumar is ordered to be released on bail subject to her furnishing bail bonds/surety bonds to the satisfaction of trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

6. The present petition stands accepted accordingly.

2.9.2019
pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No