

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CRM-M-43946 of 2019.

Decided on:- November 29, 2019.

Vinod Kumar.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

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

Present:- Mr. Om Pal Sharma, Advocate
for the petitioner.

Mr. Saurav Khurana, D.A.G., Punjab.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.249 dated 27.11.2018 under Sections 366 and 376 IPC registered at Police Station Jamalpur, District Ludhiana.

The aforesaid FIR was registered at the behest of the father of prosecutrix. As per the FIR, on 23.11.2018, the petitioner, who was otherwise residing in the neighbourhood of the complainant, had allured his daughter (prosecutrix) on the pretext of marriage despite he being already married having two children.

Learned counsel for the petitioner has submitted that initially, the aforesaid FIR was registered under Section 366 IPC, however, later on, on the

basis of statement of the prosecutrix, the offence under Section 376 IPC was added in the case. He has argued that the prosecutrix is a major girl and had accompanied the petitioner all the way from Ludhiana to Faridabad, where they stayed together for about 7 days and since the physical relations, if any, established between them were consensual, no external injury was found on the person of the prosecutrix during her medical examination. In this manner, she being a consenting party and the petitioner being in custody since 11.01.2019 deserves to be admitted on bail.

Learned State counsel, on instructions from ASI Bhupinder Singh, does not dispute the custody of the petitioner. However, he submits that during the medical examination of the prosecutrix, ultrasound was conducted and the report thereof confirmed her pregnancy. The petitioner has established relations with the prosecutrix on the false pretext of marriage despite the fact that he is already married having two children.

I have heard learned counsel for the parties.

The petitioner is in custody since 11.01.2019. No external injury has been pointed on the person of the prosecutrix. She had travelled all the way from Ludhiana to Faridabad and stayed with the petitioner for 7 days and during this stay, she had not made any complaint to the police or any other authority. The paragraph No.2 of the order dated 16.08.2019 passed by learned Additional Sessions Judge, Ludhiana passed in bail application of the petitioner shows that the prosecutrix otherwise intended to compromise the matter with the petitioner on the condition that he should give divorce to his legally wedded wife and to live with the prosecutrix. Therefore, when the

culpability of the petitioner is yet to be established during the trial, this Court finds that the petitioner deserves to be admitted on bail.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing adequate bail and surety bonds to the satisfaction of learned trial Court.

It is made clear that the petitioner shall not extend any threat and shall not try to influence any prosecution witness directly or indirectly in any manner.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case without being influenced with these observations in any manner.

November 29, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No