

224.

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

CRM-M-4350-2020

Date of decision: 05.02.2020

MUKESH

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Yash Anand, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

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, pending trial, in case FIR No.97 dated 23.08.2019 registered under Sections 376(2)(H)/506/204 of IPC at Police Station Women, Sirsa.

As per the FIR, 8 years back, the petitioner purchased a land in Village Sahidawali and constructed a house in the fields. The petitioner called the prosecutrix (a married lady) to do some work in the fields and in the fields where he has constructed a house, he committed a wrong act with her without her consent. He continued to make physical relations with her by extending threats. 2 years back, the husband of the victim had died and the petitioner assured her to marry and made physical relations with her, but lateron, he refused to marry, as he is already married. He used to give threat to kill her in case she will make a complaint.

Learned counsel for the petitioner has argued that from the bare perusal of the FIR, it is clear that the parties were known to each other for the last about 10 years as they are living in the same town. Moreover, the first incident has taken place somewhere about 8 years back before the date of registration of the case and she did not raise any issue. Even after the death of her husband, she allegedly continued in relations with the petitioner. The allegation that the petitioner established relations with the prosecutrix on the pretext of marriage, is false as petitioner is already a married person. He is in custody since 02.09.2019. The medical evidence did not support the case of the prosecution.

Learned State counsel does not dispute the custody. However, she has informed this Court that though the prosecutrix was subjected to medical examination, but no semen was found on her person.

I have heard learned counsel for the parties.

Petitioner is in custody since 02.09.2019. Since the parties were otherwise known to each other, it is but presumed that the prosecutrix was aware of the fact that the petitioner was already married. Still it is during the course of trial, it would be established as to whether the petitioner has kept that fact concealed from the prosecutrix as regard the marital status. Thus, this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court.

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

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial court shall decide the case on the basis of available material.

(HARI PAL VERMA)
JUDGE

05.02.2020
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No