

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

CRM-M-6310 of 2020.

Decided on:- August 27, 2020.

Mangat.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. Amit Choudhary, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, A.A.G., Haryana.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

This is the second petition filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in FIR No.185 dated 23.05.2019 under Sections 323, 342, 306, 116 and 376(2)(n) read with Section 34 of the Indian Penal Code, 1860 registered at Police Station Sadar Fatehabad, District Fatehabad.

The earlier petition i.e. **CRM-M-47923 of 2019** titled as **Mangat Versus State of Haryana** filed by petitioner for the same relief was dismissed as withdrawn vide order dated November 18, 2019 passed by this Court.

The aforesaid FIR was registered against the petitioner at the behest of the prosecutrix, wherein she has stated that she is about 21 years old and has passed 11th class. The cousin sister of the prosecutrix (Bua's daughter) is married with the petitioner. In this manner, the petitioner was on

visiting terms in the complainant's house. The petitioner allured the prosecutrix for marriage and on 01.05.2009, he (petitioner) came to the house of the prosecutrix when all family members were sleeping. On the pretext of marriage, the petitioner performed sexual intercourse with the prosecutrix in the outer room of her house and on the same night, he had taken her to Amritsar, where they stayed till 23.05.2019 and during this period, she was subjected to sexual intercourse. In her absence, her father had got registered a missing complaint at Police Station Sadar Fatehabad. The petitioner dropped the prosecutrix from Amritsar to Dariyapur bus stand. Accordingly, the present FIR was registered.

Learned counsel for the petitioner submits that the petitioner is in custody since 24.05.2019. The examination-in-chief of the prosecutrix was recorded before the trial Court on 20.02.2020 and because of COVID-19 pandemic, her cross-examination could not be recorded. The prosecutrix is a major girl and was fully known to the petitioner as the petitioner is already married with her own cousin. Therefore, the allegation that the petitioner allured her on the pretext of marriage and committed sexual intercourse is false. The prosecutrix has alleged that she along with the petitioner had stayed at Amritsar from 01.05.2019 to 23.05.2019, but during this period she has not raised any hue and cry. At the most, sexual intercourse with the prosecutrix was with her consent.

Learned State counsel, on instructions from ASI Chandrakanta, does not dispute the custody, however, submits that the petitioner has allured the real cousin of his wife and taken her away to Amritsar, where he had committed sexual intercourse against her consent.

I have heard learned counsel for the parties.

The prosecutrix is about 21 years of age. She is cousin of the wife of petitioner. Therefore, she was fully aware of the fact that the petitioner is married. She stayed with the petitioner at Amritsar for about 23 days and during this period, she has not raised any complaint to the police or any other authority at Amritsar.

The petitioner is in custody since 24.05.2019 (i.e. about 1 year and 3 months) and in view of COVID-19 pandemic, regular trials are not being conducted, though the examination-in-chief of the prosecutrix has been recorded by the trial Court. Therefore, 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/Duty Magistrate.

However, it is made clear that in case the petitioner influences the prosecution witnesses in any manner directly or indirectly, the prosecution shall be at liberty to seek cancellation of his bail.

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.

August 27, 2020
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes
No