

CRM-M-12290-2020

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

CRM-M-12290-2020

Date of Decision: 14.05.2020

Rudraksh Kant Thakur

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Vivek K. Thakur, Advocate,
for the petitioner.

HARNARESH SINGH GILL, J.(Oral)

Case was taken up for hearing through video conferencing.

Petitioner has filed this petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.15 dated 18.02.2020, registered at Women Police Station Sector 51, Gurugram, District Gurugram, under Sections 376(2) (n), 323 and 506 IPC.

Notice of motion.

On the asking of this Court, Mr. Manish Bansal, DAG, Haryana, accepts notice on behalf of the respondent-State.

Learned counsel for the petitioner contended that in the present case, the prosecutrix, who is 29-year of age, is 4-year elder to the petitioner. The prosecutrix and the petitioner became friends in the year 2016. Their engagement was performed on 09.11.2019 and had been residing together for a period of two and half years since 2017. Due to ill-health of father of the prosecutrix, he also resided with them. This was a live-in-relationship

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between both of them and it was the prosecutrix, who gave her consent for physical intimacy. At the time of engagement, family members of the petitioner were also present, which is clear from the photographs attached with the petition. The engagement of the petitioner and the prosecutrix was a public affair and there was no intention of the petitioner not to marry her. It was later on when the petitioner came to know that she is involved with some other person and is a drug addict, he decided not to marry her. The learned counsel further contended that the complainant has given consent for physical relationship and the promise of the petitioner to marry her was not false. There was no breach of any consent by the petitioner for getting married. In support of his contentions, the learned counsel relied upon the judgment dated 04.10.2019 rendered by a Coordinate Bench of this Court in CRM-M-42319-2019, titled as 'Manpreet Singh Vs. State of Punjab'.

On the other hand, the learned State counsel while opposing the contentions raised by the learned counsel for the petitioner, submitted that it is a case where the petitioner has initially established physical relationship with the prosecutrix on the pretext to marry her, but later on, has resiled from the said promise.

I have heard the learned counsel for the parties and gone through the record.

In the present case, the live-in-relationship was continued for two and half years and thereafter, their engagement was performed on 09.11.2019 wherein friends and relatives of both the sides were invited. During the live-in-relationship, father of the prosecutrix was also resided with them. However when the petitioner allegedly came to know regarding

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the bad-habits of the prosecutrix, he decided not marry her. Even as per column No.18 of the MLR dated 18.02.2020(Ex.P-2)of the prosecutrix, there was no sexual intercourse with her for the last two and half months. It is further alleged that the prosecutrix was a consenting party as she was residing with the petitioner since 2017 and they have developed live-in-relationship. The petitioner has allegedly refused to get married the prosecutrix because of her bad habits. It is a case of physical relationship and the prosecutrix being 29 years of age is a working woman and is 04 years elder to the petitioner.

Moreover, the petitioner has been in custody since 18.02.2020. The trial of the case would take time to conclude. Therefore, no useful purpose would be served by keeping him behind the bars.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

Nothing observed hereinabove shall be construed as an expression of opinion on the merits of the case.

14.05.2020

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Note:	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No