

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

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**CRM-M-32388-2020
Date of decision: 11.12.2020**

Raj Kumar alias Raju

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Ashok Kumar Khunger, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") for grant of regular bail in case FIR No.134 dated 16.11.2019 registered under Sections 354-A and 376 (2)(N) of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station Women Police Station Sirsa, District Sirsa.

The prosecutrix lodged the above said FIR alleging that she was married about 14-15 years ago and one son was born out of the wedlock but due to temperamental differences a Panchayati divorce took place about 5 years ago and divorce case is pending before the Court. She is living in a rented house in Mirpur Colony for the last 6-7 years. About 3 years back accused Raju @ Raj Kumar came in contact with her and on promise of solemnizing marriage with her developed

physical relations with her. About 4 months back accused left on the pretext of some work in his village and on 30.10.2019 also took his articles from her rented house. When she asked him regarding the marriage he refused to solemnize marriage with her. The police investigated the case and arrested the petitioner on 18.11.2019.

The petitioner has filed the present petition for grant of regular bail. The petition has been opposed by learned State Counsel in terms of reply filed by way of affidavit of Sanjay Kumar, Deputy Superintendent of Police, Sirsa.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the relevant record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated by the petitioner. The petitioner was already married with Jaspal and their marriage was not dissolved by any decree of divorce passed by the competent Court. As per her own admission the petitioner lived with the prosecutrix for about 3 years and had physical relations with her consent. The prosecutrix has alleged that the petitioner had physical relations with her on promise to marry but the prosecutrix has not mentioned why during the period of 3 years she did not ask for solemnization of marriage. There is no cogent evidence to incriminate the petitioner for commission of the alleged offences. The trial is likely to take long time due to restrictions imposed to prevent the spread of infection of Covid-19 and no useful purpose will be served by further detention of the petitioner in custody.

Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has submitted that as per the allegations made in the FIR, the petitioner had committed rape by having physical relations with the prosecutrix on false promises of marrying her. In view of the nature of accusation and gravity of the offence, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner, involvement of the disputed question as to whether the petitioner had physical relations with the prosecutrix during the long period of 3 years by making false promise to marry and also the fact that the trial is likely to take long time due to restrictions imposed to prevent the spread of Covid-19, but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

In view of the above, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

11.12.2020

kavneet singh

**(ARUN KUMAR TYAGI)
JUDGE**

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