

221.

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

CRM-M-47473-2019

Date of decision: 22.01.2020

SANJEEV KUMAR

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Vivek Singla, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner, pending trial, in case FIR No.73 dated 06.12.2018 registered under Sections 323, 324, 376, 377, 506 of IPC at Women Police Station, Panchkula.

The aforesaid FIR was registered at the behest of the prosecutrix. As per the FIR, the petitioner has made physical relations with the prosecutrix on the pretext of marriage, but he has not solemnized marriage with her. While establishing physical relations with her, the petitioner has told the prosecutrix that he has some conflict with his wife and she is not interested to stay with him and, therefore, he would give divorce to his wife and will marry with the prosecutrix. On 27.08.2018, the prosecutrix has come to know that the petitioner has relations with some girl Sneha and has a baby girl from her. On 08.09.2018, he has made an attempt

to kill her while pressing her neck in the park near Saketri. At one stage, he has compromised with her with an assurance that he will marry her and thereafter, they started living together in House No.772, Amrawati Enclave. However, they lived there for about one month. Because of the beatings by the petitioner to the prosecutrix, the owner of flat asked them to vacate the premises. Thereafter they started residing in Village Chandimandir Kotla. The petitioner used to beat the prosecutrix there as well. He wanted to make unnatural relations with her and on her refusal, he used to make unnatural relations with her forcibly. On 30.11.2018 at about 10.30 AM, the petitioner without any reason gave her beatings and for this reason, her right shoulder and arm were swollen.

Learned counsel for the petitioner has argued that the petitioner is in custody since 10.07.2019. He is working with the Forest Department, Morni. The allegation that the petitioner has established physical relations with the prosecutrix on the pretext of marriage with an assurance that he will give divorce to his wife, cannot be accepted, as even the prosecutrix herself is a married lady and this fact was conveniently withheld while getting the FIR registered. She was married with Raj Kumar @ Kamal and from the wedlock, they have a daughter who is staying with her husband. The prosecutrix is intending to delay the proceedings on one pretext or the other. On 20.01.2020, she was examined-in-chief and the case was adjourned for 21.01.2020 for her cross-examination, but she did not turn up and it is for this reason, the case has been adjourned to 05.03.2020.

Learned counsel for the complainant has argued that on the relevant date i.e. 21.01.2020, the prosecutrix was present in the Court and

since she has moved different applications including application under Section 216 Cr.P.C. for adding the charge, she could not be cross-examined and the case was adjourned for 05.03.2020.

I have heard learned counsel for the parties.

The custody of the petitioner is not in dispute. The petitioner and the prosecutrix both are already married. The controversy as to whether the petitioner has established relations with the prosecutrix on the pretext of marriage, is yet to be established during trial. The prosecutrix is also a married lady and has a daughter from the wedlock of existing marriage. This fact was not disclosed in the FIR. Even otherwise, the prosecutrix has submitted an affidavit dated 29.09.2018 (Annexure P-2) wherein she has stated that under the influence of some other persons, she has made a complaint against the petitioner.

With this background of the case when the parties are already married and the proceedings are not likely to be concluded in the near future, and on 21.01.2020 as many as 3 applications were filed by the prosecutrix which include addition of charge, to grant protection and to grant interim compensation to her, 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.

However, in case it is found that the prosecutrix is being pressurized by the petitioner in any manner, the Superintendent of Police concerned is directed to act in accordance with law.

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

22.01.2020
sanjeev

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