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

CRM-M-2198 of 2021
Date of Decision: 20.04.2021

Mukesh Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Inderjeet Singh, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Through Video Conferencing

JASGURPREET SINGH PURI, J.(ORAL)

The present petition has been filed seeking regular bail under Section 439 of Code of Criminal Procedure, 1973, in case FIR No.145, dated 31.10.2019, under Section 376 and 506 of Indian Penal Code, 1860, registered in Women Police, Yamuna Nagar, District Yamuna Nagar.

As per the FIR, the complainant-prosecutrix gave information to the police that earlier her marriage was solemnized with one Kamal son of Barkha Ram about ten years ago and out of the wedlock, she has two daughters and thereafter some dispute has arisen between her and her husband and now she along with her daughters were residing with her mother and she started working in milk dairy at Chhachhrauli, where the accused-petitioner used to come to purchase material and thereafter he told that he wishes to marry her but she refused to marry. Thereafter, on

28.04.2019, he had taken her at a hotel on motor-cycle and had forcibly done bad acts with her on the pretext of marriage and he did the same acts again and thereafter, the complainant became pregnant on account of relations with the petitioner.

Learned counsel for the petitioner has submitted that the present FIR is totally false and frivolous because the petitioner and the prosecutrix were rather in a live-in-relationship with each other voluntarily. He referred to the statement made by the prosecutrix under Section 164 of Cr.P.C. where she had stated that they were in a live-in-relationship. However, she again made contradictory statement and then again at the stage of trial. He submitted that the petitioner is in custody since 18.04.2020 and out of 8 cited witnesses, 5 have already been examined. He submitted that all the material witnesses have been examined including the prosecutrix and the petitioner is not involved in any other case. He submitted that in view of the above factual position, the petitioner may be considered for grant of concession of regular bail.

On the other hand, Mr. Panwar, DAG, Haryana, has submitted that it is correct that the petitioner is in custody since 18.04.2020 and out of 8 cited witnesses, 5 have already been examined including the prosecutrix. He has also submitted that it is correct that the petitioner is not involved in any other case. He has however opposed the grant of bail on the ground that the matter was serious in nature and therefore, has prayed for rejection of the bail application.

I have heard the learned counsel for both the parties.

So far as, the custody of the petitioner is concerned, the same is not disputed by the learned State counsel. It is also not disputed that the petitioner is not involved in any other case. Furthermore, the statement

made by the prosecutrix in the FIR and statement made under Section 164 of Cr.P.C. deserves to be considered at the time of deciding the present bail application. It is not the case of the State that in case, the petitioner is released on regular bail then he may tamper with any evidence or he may influence any witnesses or he may flee from justice.

Therefore, considering the totality and circumstances of the present case, I deem it fit and proper to allow the present petition. Consequently, the petitioner shall be released on regular bail on his furnishing requisite bail/surety bonds subject to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

(JASGURPREET SINGH PURI)
JUDGE

April 20, 2021
Manpreet

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