

CRM-M No.2938 of 2021
Date of decision: 18.03.2021

Hakam Khan

.... Petitioner

Versus

State of Haryana

.... Respondent

Coram: Hon'ble Mr. Justice B.S. Walia.

Present : Ms. Priyanka Dalal, Advocate for the petitioner.

Ms. Rajni Gupta, Addl.AG, Haryana.

B.S. Walia, J. (Oral)

[1] Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

[2] Prayer in the petition under Section 439 Cr. P. C. is for grant of regular bail in case FIR No.0329 dated 02.06.2018 registered under Sections 209, 211, 417, 465, 467, 511, 468, 471, 120-B IPC at Police Station Sector Nuh, District Nuh.

[3] Learned counsel for the petitioner contends that the petitioner had filed protection petition by way of CRM-M-10677 of 2015 before this Court along with the complainant Jamshida as co-petitioner seeking police protection on the ground that both of them had entered into a matrimonial bond. However, during the proceedings, complainant Jamshida had got recorded her statement before the High Court that she had never entered into any wedlock/nikah with the petitioner Hakam Khan and infact after the death of her husband Nasru, she was fraudulently induced by the petitioner that he would facilitate payment of compensation on

account of death of her husband and for that her thumb impressions were obtained on various documents by bringing her by deceit to Chandigarh for the completion of formalities to enable her to get compensation of Rs.1,50,000/-. Pursuant to recording of her statement, the High Court directed the Superintendent of Police, Mewat to register a case for fraud as well as fabrication of records and to ensure action against all persons associated with the marriage alongwith preparation of necessary documents in support of it, including filing of the protection petition and to probe and also to explore the angle of human trafficking. The protection petition was dismissed with cost of Rs.50,000/- to be recovered from the petitioner.

[4] Learned counsel for the petitioner contends that pursuant thereto case bearing FIR No.378 dated 08-06-2015 under Section 376 IPC was registered at Police Station Nuh against the petitioner in which he was convicted and sentenced to undergo rigorous imprisonment for 7 years. However, vide order dated 12.01.2018 in CRM-39352 of 2017 in CRA-S-3221-SB of 2017 the remaining sentence of the petitioner under Section 376 IPC was suspended. Subsequently, IOIN-CRM-M-10677 of 2015 came up before this Court on 23.05.2018 wherein notice was issued to the petitioner Hakam Khan as well as the Advocate General, Haryana to inform the Court regarding compliance of order dated 27.05.2015. Pursuant thereto, Deputy Advocate General, Haryana wrote letter dated 25.05.2018 to the Superintendent of Police, Mewat with regard to compliance of directions of High Court order dated 27.05.2015 in CRM-M-10677 of 2015 and regarding status of the proceedings. Thereupon, the police instead of apprising the Advocate General, Haryana office regarding registration of FIR No.378, registered FIR No.329 dated 02.06.2018 against the petitioner under Sections 209, 211, 417, 465, 467, 511, 468, 471, 120-V IPC at Police Station Nuh on the very same set of allegations and cause of action on which FIR No.378, dated 08.06.2015 under Section 376 IPC was registered. Learned counsel further contends that pursuant thereto the petitioner was arrested on 19.11.2020 and is in custody since then.

Investigation is complete and Challan has been presented but the trial will take considerably period of time, therefore, no useful purpose would be served by keeping the petitioner in custody.

[5] Learned State counsel however, confirms that the petitioner is in custody since 19.11.2020, investigation is complete, Challan has been filed but charges are yet to be framed.

[6] Accordingly, taking into all aspects of the matter including the fact that the petitioner is in custody since 19.11.2020, investigation is complete, Challan has been filed but charges are yet to be framed, trial will take considerable period of time, besides the petitioner has been convicted under Section 376 IPC, and has already undergone 09 months of imprisonment in respect thereto, that sentence in said case was also suspended vide order passed in CRM-39352 of 2017 in CRA-S-3221-SB of 2017 and also in view of the circumstances prevailing on account of Covid-19 pandemic, without commenting on the merits of the case, the present petition is allowed. Petitioner-Hakam Khan is ordered to be released on regular bail during the pendency of the trial on his furnishing bail bond and surety bond to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, provided he is not required in any other case. The petitioner shall also comply with the conditions contained in Section 437(3) Cr.P.C. However, nothing stated hereinabove would be taken to be an expression of opinion qua the merits of the case.

18th March 2021
Shivani/Sonia/

(B.S. Walia)
Judge

1. Whether speaking/reasoned: Yes/No.
2. Whether reportable : Yes/No.