

224

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.5224 of 2021 (O&M)
Decided on: 09.02.2021

Ranbir

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Sumit Sangwan, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.19 dated 21.09.2020, for offence punishable under Sections 376, 377, 498-A, 506, 34 of the Indian Penal Code, 1860 (in short 'IPC') registered at Women Police Station, Charkhi Dadri District Charkhi Dadri.

Counsel for the petitioner has argued that the FIR was registered at the instance of the victim 'S' (name not disclosed) with the allegation that her husband Kuldeep, son of the present petitioner committed unnatural sex and the petitioner being father-in-law committed rape with her about 1½ months ago. When she narrated the said fact to the Sarpanch of the village, he did not support her. On 28.08.2020, the accused forced her to consume some poisonous substance and with the aforesaid allegations, the FIR was registered.

Counsel for the petitioner has further submitted that in fact,

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the petitioner is aged about 57 years and is in custody since 29.09.2020.

The investigation is complete and challan stands presented on 16.10.2020.

Counsel for the petitioner has also submitted that the son of the petitioner Kuldeep has already been released on bail vide order dated 02.09.2020 and during the investigation, the police deleted Section 328 IPC. It is further submitted that in fact, the victim prior to her marriage with the son of the petitioner namely Kuldeep, had executed an affidavit on 06.02.2020 that she is unmarried woman whereas she was earlier married to one Rajiv Kaushal, resident of village Salemur, Tehsil Garhshankar, District Hoshiarpur and she has even filed a suit for declaration on her behalf as well as on behalf of her minor son Mohit against the general public and her husband Rajiv Kaushal and his brother Yuvraj to the fact that the victim and her minor son are owners in possession of the suit land in the said suit and the same is pending before the competent Court of law. On coming to know the aforesaid fact, the son of the petitioner Kuldeep even filed a petition before the District Judge, Charkhi Dadri, for declaring the marriage with the complainant as null and void and the same is also pending.

Counsel for the petitioner has also submitted that even a complaint has been given by Kuldeep to the Superintendent of Police, Charkhi Dadri, regarding the fraud committed by the victim on 07.09.2020 which is pending enquiry and even before the Women Cell, the victim has made a statement that her second marriage was solemnized with one Jai Bhagwan on 21.09.2013 and one son namely Prateek was born, who is 5 ½ years' old. Since, she has strained

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relations with Jai Bhagwan, she gave an affidavit of divorce to Jai Bhagwan and became friend with Kuldeep on Facebook and solemnized marriage with him. Thereafter, she started creating some evidence and made an excuse of consuming some poisonous substance to involve her in-laws in a false case. It is further stated in the statement that now she has compromised the matter regarding the allegations made in her application.

Counsel for the petitioner has also relied upon the proceedings, which was undertaken by the Gram Panchayat Mandi Hariya, Charkhi Dadri under the seal of the Sarpanch wherein the second husband of the victim Jai Bhagwan had taken the victim from the house of Kuldeep as she is his legally wedded wife.

Counsel for the petitioner has, thus, submitted that the conduct of the victim in concealing her 02 previous marriages and then making false complaint against the petitioner and her son by levelling the allegations of rape and unnatural sex, are nothing but just a ploy to save her own skin that no legal action be taken against her by Kuldeep or the petitioner.

Counsel for the State has not disputed the factual position but opposed the prayer for bail. It is further submitted that as per the allegations in the FIR, the offence under Sections 376 and 377 IPC is made out. It is also not disputed that Kuldeep has already been released on regular bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is aged about 57 years; he is in custody since 29.09.2020; the investigation is complete and challan

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stands presented; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

09.02.2021

yakub

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No