

CRM-M-20438-2021

Date of decision : May 26, 2021

WARIS

.....Petitioner

Versus

STATE OF HARYANA

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Munish Behl, Advocate for the petitioner.

Mr. Ashish Yadav, Addl. AG, Haryana.

Mr. Gaurav Sethi, Advocate for the complainant.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

Petitioner prays for bail pending trial in FIR No. 76 dated 08.08.2020 under Sections 323, 328, 341, 376 (2)(N), 452, 506 and 34 IPC registered at Police Station Women Ambala, District Ambala.

Above said FIR, was registered on the statement of complainant/victim/prosecutrix with the allegations that present petitioner on extending false assurances/promises, established physical relations with her in December, 2019, however, he did not honour his promise. Victim thereafter tried to resist the relationship but allegation of use of force are raised qua the petitioner. It is alleged that on 25.02.2020 prosecutrix was administered some poisonous/narcotic substance by the petitioner and one Niyamat Singh. Victim was taken to the Civil Hospital, Ambala Cantt. and thereafter referred to Government Medical College and Hospital, Sector 32, Chandigarh. Assurance was again given by the petitioner that he would marry the prosecutrix and she was also pressurised, due to which she suffered a statement on 11.03.2020 to the effect that she had taken some

tablet/pain killer and nobody is at fault. However, petitioner, it is stated, again backtracked and did not keep his promise and did not marry the prosecutrix, hence FIR No. 76 was registered on 08.08.2020.

Learned counsel for the petitioner vehemently argues that the prosecutrix /alleged victim is a mature lady of 37 years and petitioner is 25 years old. Though not admitted, the relationship, if any, between the petitioner and prosecutrix was purely consensual and there is no question of any false assurance of marriage etc. It is submitted that challan/final report under Section 173 Cr.P.C. stands presented and petitioner undertakes not to contact the prosecutrix in any manner during the pendency of trial. Petitioner undertakes to face trial. It is, thus, prayed that this petition be allowed.

Learned counsel for the complainant opposes this petition while submitting that there is no question of consensual relationship as relations were established between the petitioner and prosecutrix on the basis of false assurance of marriage held out by the petitioner which he did not honour. It is due to pressurisation and false assurance yet again meted out by the petitioner that statement of the prosecutrix was recorded on 11.03.2020 when she was discharged from the hospital. It is further submitted that petitioner is involved in a number of criminal cases, therefore, this petition be dismissed. Learned counsel for the State has also opposed this petition.

Heard, learned counsel for the parties.

It is a matter of record that prosecutrix/victim is 37 years old living with her mother and is engaged in dispensing tuitions to the students. As per allegations in the FIR, prosecutrix and petitioner had friendly relations and physical relations were established in December, 2019. Question of consensual

relationship or otherwise is a matter of evidence to be decided by the learned trial Court in accordance with law. Challan/final report under Section 173 Cr.P.C. stands presented. It is verified by learned counsel for the State, on instructions from SI Juglal, Police Station City Fatehabad that no witness had appeared on the last two dates before the learned trial Court. It is further informed by learned counsel for the State that the petitioner is involved in one case under the Excise Act and stands acquitted in two other FIRs against him.

There are no allegations on behalf of the State that petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts in Court, if released on bail. Trial is not likely to conclude in the near future.

No useful purpose shall be served by keeping the petitioner incarcerated any longer. Keeping in view the facts and circumstances noted above but without expressing any opinion on the merits of case, it is considered just and expedient to allow this petition.

Consequently, petitioner be released on bail pending trial subject to his furnishing requisite bail bonds and surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

It is made clear that petitioner shall not try to contact the prosecutrix/victim or any of her family members, directly or indirectly in any manner whatsoever. In case of any infraction, bail to the petitioner may be cancelled.

It is reiterated that none of the observations made herein above are a reflection on the merits of the case and shall have no bearing on the trial.

May 26, 2021
rts

(Lisa Gill)
Judge