

CRM-M-27050-2021

Date of Decision: 21.9.2021

Bharat Singh

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. D.S. Matya, Advocate, for the petitioner.

Mr. Manish Bansal, Deputy Advocate General, Haryana.

Mr. Aman Priye Jain, Advocate, for the complainant.

Rajesh Bhardwaj, J. (ORAL)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.40 dated 26.1.2021 under Sections 376(2)(n), 201, 506, 34 IPC registered at Police Station City Sohna, District Gurugram.

It has been contended by learned counsel for the petitioner that the petitioner has been falsely and frivolously implicated in the present FIR after due deliberations by the prosecutrix. He submits that the petitioner and the prosecutrix both are married and the allegations in the FIR are that the prosecutrix was married on 15.2.2015 to one Bhim. Thereafter, due to matrimonial discord, the bitterness arrived in their relations and then the petitioner came in contact with the prosecutrix. It is alleged that taking advantage of the situation of the prosecutrix, the petitioner established physical relations with her repeatedly on the promise to marry her.

It was further alleged by the prosecutrix that when she asked the petitioner to marry her, she was threatened by the petitioner that her family members would be involved in some cases, in case she pressurized to marry him. Learned counsel for the petitioner submits that the allegations are false and frivolous for the simple reason that FIR No.53 dated 18.4.2020 was already registered by the brother of the petitioner, Chanderpal against the brother of the prosecutrix. He contends that there was no occasion for the petitioner to threaten the prosecutrix by involving her family in false cases, as FIR No.53 dated 18.4.2020 was already in place before the present FIR. He submits that the present FIR has been lodged only as a counter blast to the FIR lodged by the brother of the petitioner against the brother of the prosecutrix. He has further submitted that evidence are going on before the trial Court, but the prosecutrix is intentionally not appearing before the trial Court so as to prolong the incarceration of the petitioner. He has submitted that failing to secure the presence of the prosecutrix, the trial Court has issued non-bailable warrants against the prosecutrix. He would contend that the conduct of the prosecutrix itself speaks of the false implication of the petitioner.

Learned State counsel opposes the submissions made by learned counsel for the petitioner and submits that in all there are 20 prosecution witnesses, out of which 6 witnesses have been examined. He submits that the petitioner is involved in the serious offence and does not deserve any leniency.

Learned counsel for the complainant has also opposed the submissions made by learned counsel for the petitioner and has asserted that

the petitioner has committed heinous offence against the prosecutrix, hence, the prayer be declined.

I have heard learned counsel for the parties.

This Court is seized of the issue regarding the bail. The petitioner is behind bars since 26.1.2021. Evidently, the FIRs are against both the parties, which are pending trial. The veracity of the allegations would be assessed only by the trial Court.

In the overall facts and circumstances of the case, I am convinced that the learned counsel for the petitioner has made out a case for grant for regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

21.9.2021
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Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No