

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(through video conferencing)**

CRM-M-33673-2021 (O&M)
Decided on : 10.11.2021

Pritpal Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. B.S.Sidhu, Sr. Advocate with
Mr. B.P.S.Virk, Advocate
for the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab.

Mr. Kunwar Rajan, Advocate
for the complainant.

Manjari Nehru Kaul, J.(Oral)

CRM-26932-2021

Application is allowed as prayed for and documents
(Annexures A-1 to A-4) are taken on record subject to all just exceptions.
Office to tag the same at appropriate place.

CRM-M-33673-2021

Prayer in the instant petition filed under Section 438 Cr.PC is
for grant of anticipatory bail to the petitioner in FIR No.165 dated
15.07.2021 under Section 376 IPC registered at Police Station Kharar
District SAS Nagar.

Learned senior counsel for the petitioner *inter alia* contends

that totally false and exaggerated allegations have been levelled against the petitioner in the FIR in question by the prosecutrix with the sole motive to grab his property. He contends that the false implication of the petitioner has to be appreciated in the following background:

- i) that it was the prosecutrix herself, who befriended the petitioner on Instagram even though she was conscious that the petitioner was four years younger to her.
- ii) that the relations, if any, between the petitioner and the prosecutrix were consensual in nature and rather the prosecutrix, who was employed, would take the petitioner to various places including Kasauli and also spend money while booking various hotels for themselves.
- iii) that since the petitioner was a student when he became friend with the prosecutrix and still unemployed, there was no question of any promise of marriage being made to the prosecutrix and thereafter in the garb of such promise, subjecting her to physical relations, as had been alleged in the FIR in question.
- iv) that the allegations of Roka ceremony being solemnized on 15.06.2020 was also nothing but a bundle of lies. In fact, it was the family of the prosecutrix, which had approached the family of the petitioner with a marriage proposal, however, no ceremony as alleged had taken place. Thus, the allegations that the marriage could not

be solemnized between the parties on account of demand of Fortuner car as well as huge amount of money were patently false. In fact, the reason for refusal of the marriage proposal by the petitioner's family was on account of the age difference of four years between the parties as also their divergent family backgrounds.

- v) that a complaint(Annexure P-6) dated 04.05.2021 was also made to SSP, Moga against the prosecutrix and her family members for creating a ruckus in the village of the petitioner, in addition to threatening him with dire consequences in case he failed to solemnize marriage with her.

Learned senior counsel has submitted that in the light of the aforesaid it was apparent that the FIR in question had been got registered in retaliation to the complaint dated 04.05.2021 (Annexure P-6) given to SSP, Moga and to pressurize the petitioner to solemnize marriage with the prosecutrix. In addition, it has also been submitted that it could not be believed that the prosecutrix would have still trusted the petitioner had a promise of marriage indeed been made by him as even subsequent to her third abortion, she continued to have physical relations with the petitioner. In support, learned senior counsel has placed reliance upon ***Dr. Dhruvaram Murlidhar Sona vs. State of Maharashtra and others, (Crl. Appeal No.1443 of 2018), Uday vs. State of Karnataka, (Crl. Appeal No.336 of 1996), Deelip Singh @ Dilip Kumar vs. State of Bihar (Crl. Appeal No.44 of 2004), Deepak Gulati vs. State of Haryana (Crl. Appeal No.2322 of***

2010), Tilak Raj vs. State of Himachal Pradesh (Crl. Appeal No.13 of 2016) to hammer-forth his submissions that it was a case of consensual relations between two adults.

Per contra, learned State counsel assisted by counsel for the complainant has vehemently opposed the prayer and submissions made by learned senior counsel. A prayer for the custodial interrogation of the petitioner has been made by the State counsel in the wake of the serious and specific allegations against him. Learned counsel have submitted that the petitioner had developed physical relations with the prosecutrix after winning her trust and confidence inasmuch as on two occasions, he took the prosecutrix to the Gurudwara Sahib and swore that he would solemnize marriage with her and on another occasion even put vermilion also on her forehead. He has further submitted that it was a matter of record that when the prosecutrix conceived and was admitted in MAX Hospital, Phase VI, Mohali, it was none other than the petitioner himself, who had got her admitted for termination of her pregnancy, by showing himself as her husband. Learned counsel has further submitted that the said fact duly corroborated the allegations levelled in the FIR in question wherein also the prosecutrix had alleged that on all the 03 occasions when she conceived and got her pregnancy terminated, it was none other than the petitioner himself, who got her admitted in the hospital for termination of the pregnancy and also showed himself to be her husband. Learned counsel has, therefore, submitted that it was abundantly clear from the circumstances on record, that the consent of the prosecutrix for physical relations was procured by the

petitioner as a result of false promise of marriage extended to her. Learned counsel for the complainant also drew the attention of this Court to various messages, which were exchanged between the parties on whatsapp and contended that perusal of those whatsapp messages further clinchingly reveal that the prosecutrix had been having physical relations with the petitioner only on account of the false promise of marriage repeatedly made to her. He further controverted the submissions made by learned Senior Counsel that no Roka ceremony, as alleged, had taken place. Learned counsel submitted that the solemnization of the roka ceremony clearly found reflected in the whatsapp messages, which were exchanged between the parties and are annexed as Annexures A-1 to A-4 with CRM No.26932 of 2021. It was submitted that reliance placed upon the above-said case laws by the learned senior counsel for the petitioner would not thus, come to his rescue as the facts and circumstances of the case were distinguishable from them.

Heard learned counsel and perused the material available on record.

Prima facie there are serious and specific allegations levelled against the petitioner of having established physical relations with the prosecutrix on the pretext of marriage. At this stage, this Court would not hesitate to observe that from the material on record including record of the hospital where the prosecutrix got her pregnancy terminated, the allegations levelled by the prosecutrix cannot be said to be without any substance. Rather, all these circumstances prima facie do hint that the prosecutrix

continued having physical relations with the petitioner even after her abortions because of the false assurances of marriage given to her. This Court therefore is of the view that the custodial interrogation of the petitioner becomes all the more imperative.

Accordingly, the present petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

10.11.2021

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