

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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**CRM-M-34473-2021
Date of decision: 02.12.2021**

William Masih

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Krishan Sehajpal, Advocate
for the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab
for the respondent-State.

MANJARI NEHRU KAUL, J. (ORAL)

The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.0140 dated 24.05.2021 under Sections 376 and 420 IPC registered at Police Station City Kapurthala.

Learned counsel submits that the prosecutrix aged 30 years and the petitioner aged 32 years were neighbours and had been in a consensual relationship for a long time. It has been submitted that on 18th February 2021, both of them left their respective homes and started living together at Jalandhar. However, subsequently, the wife of the petitioner came to Jalandhar along with her relatives and forcibly took away her husband i.e., the petitioner. Resultantly, the prosecutrix lodged the FIR in question by levelling false allegations against the petitioner of establishing physical relations with her on the pretext of marriage. It has been further submitted that since the prosecutrix was admittedly a neighbour of the petitioner, she was very well aware of his

marital status, hence the story which has been put forth by the prosecutrix that she was lured by the petitioner into a physical relationship on the pretext of solemnizing marriage is patently false and unbelievable. Learned counsel further submits that in compliance of order dated 24.08.2021, the petitioner has joined investigation and cooperated with the investigating agency.

Per contra, learned State counsel on instructions from ASI Kamaljit Singh, has not been able to dispute the factum of the petitioner having joined investigation. She has also not been able to controvert the fact that the prosecutrix and the petitioner were immediate neighbours and hence it could not be digested that she would not have known about the marital status of the petitioner. Learned State counsel has, however, submitted that on account of their relationship, the prosecutrix was now in an advance stage of pregnancy.

On a query put to the learned State counsel qua the contents of the statement made by the prosecutrix under Section 164 Cr.P.C., she has submitted fairly that it was not the case of the prosecutrix that she had been forcibly taken away by the petitioner and thereafter made to establish forcible physical relations with him.

I have heard learned counsel for the parties and perused the material on record.

Prima facie it does not appear to be a case of forceful sexual assault as a perusal of the FIR in question as well as the statement of the prosecutrix recorded under Section 164 Cr.P.C. reveals that admittedly the prosecutrix was an adult at the time of the alleged evidence and prima facie a consenting party.

In view of the facts and circumstances as enumerated hereinabove, but without commenting upon merits of the case, the instant petition is allowed and interim order dated 24.08.2021, is made absolute subject to the conditions laid down in Section 438(2) Cr.P.C.

02.12.2021

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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