

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(220)

CRM-M-34795-2021

Date of Decision: 31.08.2021

Mohd. Salman @ Lucky Khan

--Petitioner

Versus

State of U.T. Chandigarh

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Mandeep Singh, Advocate for the petitioner.

Mr. A.M. Punchi, P.P., UT, Chandigarh.

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., seeking concession of regular bail to the petitioner in case FIR No.149 dated 26.10.2019 registered under Section 376 (2) (n) IPC at Police Station, Sarangpur, Chandigarh.

The FIR in question was lodged by the prosecutrix wherein she has alleged that she is a widow and has three children. She met petitioner in the year 2015 after the death of her husband. It is further stated that the petitioner got familiar with the prosecutrix and with the sympathetic behaviour shown towards the prosecutrix, she fell into his trap and thus the accused made physical relationship with her on the pretext of marriage. He established physical relationship on the promise of the marriage, number of times. Thereafter, fraudulently he took a sum of Rs.1 lakh from her. Later on the prosecutrix found her cheated by the petitioner as he was bound to be

not only married but was father of four children as well. In the circumstances, the prosecutrix got the present FIR lodged for taking legal action against the petitioner. The investigation commenced and the petitioner was arrested on 23.02.2021. Aggrieved, the petitioner filed a bail application under Section 439 Cr.P.C. before the Fast Track Court, Chandigarh but the same was declined vide order dated 15.06.2021. Aggrieved by the same, the petitioner has approached this Court by filing the present petition.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present FIR as no offence under Section 376 (2) (n) IPC is made out against him. It has been further contended that both petitioner and the prosecutrix are major and the relationship is totally consensual. Counsel has heavily relied upon the affidavit placed on record as Annexure (P-2) contending that the compromise has been arrived at between the parties and therefore, further incarceration of the petitioner is unwarranted.

Learned counsel appearing for U.T. Chandigarh has strongly opposed the contentions raised by learned counsel for the petitioner. It has been asserted that the compromise alleged to have been entered into has no legal sanctity and thus would have no bearing in the facts and circumstances of the present case. Counsel further contends that the petitioner has exploited the prosecutrix and thus by making a false promise of marriage, he established physical relationship with the prosecutrix without her consent and as a result, present petition may be dismissed.

I have heard learned counsel for the parties at length and have gone through the records carefully.

No doubt, the prosecutrix and petitioner are major, however, the prosecutrix has specifically alleged that she is a widow and the petitioner in a well planned manner exploited her situation and established physical relationship number of times on the pretext of marriage. The challan in the present case already stands submitted. The factual dispute would be established only by leading the cogent evidence before the learned Trial Court. Granting bail at this stage may adversely affect the ongoing trial.

In the facts and circumstances noted herein above, this Court finds the present petition is devoid of any merit and hence the same is accordingly dismissed.

(RAJESH BHARDWAJ)
JUDGE

31.08.2021

lucky

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No