

CRM-M-35120-2021

Date of Decision:30.9.2021

Shahnawaz

..... Petitioner

Versus

The State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vikram Bali, Advocate, for the petitioner.
Mr. Manish Bansal, Deputy Advocate General, Haryana.
Mr. Rohit Joshi, 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.388 dated 18.6.2021 under Sections 376(2)(n), 506 IPC registered at Police Station Chandni Bagh Panipat.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated as no offence under Section 376(2)(n) IPC is made out from the bare reading of the allegations made in the FIR. He has contended that the petitioner as well as the complainant both are major and the allegations levelled in the FIR that physical relationship has been established by the petitioner on the promise of marriage, would make no offence under Section 376(2)(n) IPC as the same does not amount to misconception of the fact in the facts and circumstances of the case. He further contends that after registration of FIR, both the complainant and the

petitioner have entered into a compromise and now they are ready to even marry. Learned counsel for the petitioner further submits that marriage could not take place as the petitioner is behind bars. He further submits that the now the prosecutrix has been examined on 22.9.2021 and she has not supported the case of the prosecution and thus, has been declared hostile on the request of learned Public Prosecutor. He submits that false implication of the petitioner is writ large in the facts and circumstances of the case.

Learned State counsel submits that there are specific allegations against the petitioner in the FIR, however, he candidly submits that the prosecutrix has not supported the case of the prosecution. There are total 13 prosecution witnesses cited in the challan, out of them only 1 witness has been examined.

Learned counsel for the complainant has also affirmed the arguments raise by learned counsel for the petitioner and submitted that the complainant has been declared hostile.

I have heard learned counsel for the parties.

In the facts and circumstances of the case, I find that the prosecutrix is major and she has not supported the case of the prosecution. The petitioner is behind bars since 12.7.2021. The trial would take time to conclude as out of total 13 prosecution witnesses only 1 witness is examined. In the overall facts and circumstances of the case, I find that 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

30.9.2021
sharmila

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