

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

225

**CRM-M-40336-2021  
Decided on : 02.12.2021**

Rakesh

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

PRESENT: Mr. Sunil Panwar, Advocate and  
Mr. Dhruv Singh, Advocate  
for the petitioner(s).

Mr. Gagandeep Singh Chhina, AAG, Haryana  
assisted by SI Urmila.

Mr. Rohit Mittal, Advocate  
for the complainant.

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**MANJARI NEHRU KAUL, J. (Oral)**

The instant petition has been filed under Section 439 Cr.P.C. for grant of bail to the petitioner in case FIR No. 25, dated 31.01.2021, under Sections 376(2)(N), 420 & 506 of IPC, registered at Police Station Badhra, District Charkhi Dadri.

On the previous date of hearing, learned State counsel had apprised the Court that an application had been moved under Section 319 Cr.P.C. to summon the co-accused, who had been placed under column No.2. However, the learned State counsel on instructions from SI Urmila, has apprised the Court that the said application under Section 319 Cr.P.C., stands dismissed by the trial Court.

Learned Counsel for the petitioner *inter alia* contends that the petitioner had solemnized with the prosecutrix on 18.01.2021, however, subsequently it was revealed to him that the prosecutrix i.e. his

wife had concealed the factum of her previous marital status, as a result of which, their relations turned sour. It has been submitted that the dispute between the petitioner and his wife, that is the prosecutrix, essentially was one of marital discord and thus there was no question of ingredients of Section 376(2)(N) of IPC being attracted in the case in hand. A prayer has, therefore, been made to extend the concession of bail to the petitioner, as the prosecutrix stands examined and in the circumstances, his further incarceration would not serve any useful purpose.

On the other hand, learned State counsel assisted by learned counsel for the complainant, has opposed the prayer made by learned counsel for the petitioner. Learned State counsel on instructions has, however, not been able to controvert the factum of the marriage between the prosecutrix and the petitioner indeed having been solemnized. He has fairly conceded that as per the FIR itself, it was the admitted case of the prosecutrix herself that she had solemnized marriage with the petitioner on 18.01.2021. He has, however, submitted that the petitioner had established forcible physical relations with the prosecutrix after threatening her and after the marriage on 18.01.2021 mentally and physically harassed her, as he wanted to get rid of her. He has also submitted that in her statement recorded under Section 164 Cr.P.C., the prosecutrix had reiterated the allegations levelled against the petitioner of committing rape upon her on the pretext of marriage. Learned State counsel has further submitted that 02 prosecution witnesses including the prosecutrix, out of the 22 cited, stand examined.

I have heard learned counsel for the parties and perused the

material on record.

In the facts and circumstances of the case as enumerated hereinabove coupled with the fact that the material witnesses i.e. prosecutrix stands examined, the petition is allowed. The petitioner has been in custody since 11.02.2021, and there is no likelihood of the trial concluding anytime in the near future, as 20 more prosecution witnesses remain to be examined. The petitioner be admitted to bail to the satisfaction of trial Court/Duty Magistrate. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

**(MANJARI NEHRU KAUL)**  
**JUDGE**

**December 02, 2021**

*J.Ram*

*Whether speaking/reasoned: Yes/No*

*Whether Reportable: Yes/No*