

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

CRM-M-35128-2020
Decided on : 16.12.2021

Mandeep Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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

Mr. Luvinder Sofat, AAG, Punjab.

Mr. Ranbir Sekhon, Advocate
for the complainant.

Manjari Nehru Kaul, J.

The present petition has been filed under Section 438 Cr.P.C., for grant of anticipatory bail to the petitioner in case FIR No.106 dated 30.08.2020 under Sections 376, 506, 509 IPC 1860 and Sections 67, 67(A) IT Act, 2000 registered at Police Station Sadar Moga District Moga.

Learned counsel for the petitioner submits that there is no doubt that the petitioner was indeed declared a proclaimed offender on 12.11.2020, however, the said order was passed after his arrest had been stayed by this Court vide order dated 02.11.2020. He further submits that the complainant admittedly is a 33 years old married women and a perusal of the FIR in question clearly reveals that the petitioner and the complainant had been in a consensual relationship. He still further submits that the mere promise of marriage allegedly given by the petitioner to the complainant would not constitute an offence under Section 376 IPC as admittedly the complainant had not obtained divorce from her previous husband and hence,

in the circumstances, petitioner did have a valid ground for not solemnizing marriage with the complainant. It has also been submitted that in compliance of order dated 08.02.2021, petitioner had joined investigation and cooperated with the investigating agency.

Learned State counsel assisted by counsel for the complainant on instructions from ASI Malkiat Singh does not dispute the factum of the petitioner having joined investigation. Learned State counsel has very fairly admitted that there indeed was an order of this Court vide which the arrest of the petitioner had been stayed, however, it seemed that the said order inadvertently was not brought to the notice of the trial Court when the order dated 12.11.2020 declaring the petitioner a proclaimed offender was passed. He, on further instructions states that the petitioner is not required for further investigation much less for custodial interrogation.

In view of the above, the petition is allowed and interim order dated 08.02.2021, is made absolute subject to the conditions laid down in Section 438(2) Cr.P.C.

16.12.2021
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No