

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

CRM-M No. 35134 of 2020

Date of Decision: 21.01.2021

Suresh Saini

-Petitioner

Vs

State of Punjab

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Munish Puri, Advocate,
for the petitioner.

Mr. Amar Ashok Pathak, Addl. A.G., Punjab.

Mr. G.S. Verma, Advocate,
for the complainant.

RAJ MOHAN SINGH, J. (ORAL)

The case has been taken up for hearing through
video-conferencing.

Petitioner seeks grant of anticipatory bail under
Section 438 Cr.P.C. in case bearing FIR No.212 dated
02.10.2020 under Sections 376, 420 IPC registered at Police
Station Division No.7, District Police Commissionerate
Ludhiana.

On 02.11.2020, following order was passed by this
Court:-

*“The case has been taken up for hearing
through video conferencing.*

Learned counsel for the petitioner submits that there is no allegation in the FIR that the petitioner was having any physical relation with the complainant prior to the date of divorce taken by her from her previous husband. It was only after 17.01.2019, when the alleged ceremony was fixed and the complainant was brought to a rental accommodation, the alleged attempt to outrage the modesty of complainant was alleged.

*Learned counsel further submits that the alleged consensual relationship with the complainant does not constitute offence under Section 376 IPC. He relies upon **Baljit Kumar Rao vs. State of Haryana and another, 2018 (2) Law Herald, 1144.***

Notice of motion.

Mr. G.S. Verma, Advocate appears and accepts notice on behalf of the complainant.

Adjourned to 10.12.2020.

Till the next date of hearing, arrest of the petitioner shall remain stayed.”

Learned counsel for the complainant submitted that the petitioner attempted to commit offence under Section 376 IPC when date of marriage between them was fixed as 17.01.2019.

The occurrence took place in House No.616 which was taken on rent by the petitioner. Petitioner tried to outrage her modesty. Thereafter, accused No.2 and 3 pacified the things

and made her to understand that there is nothing wrong as she is going to be married to petitioner. The complainant further alleged that he kept on committing the offence on every day by alluring on the pretext of performing marriage.

Learned counsel for the petitioner by referring to petition under Sections 12, 17, 18, 19, 20, 22 and 23 of Protection of Women from Domestic Violence Act, 2005 submitted that the complainant in para no.6 has given contradictory version as regards commission of offence in rental accommodation. The complainant has mentioned that the offence was committed in rented accommodation at H.No.118, H.I. Colony, Sukhdev Nagar, Ludhiana.

Learned State counsel, however, submits that the parties were in relationship since long. The complainant has obtained divorce from her earlier husband. Both the parties are divorcee. The complainant has children from his first husband. Due to some discord, the relationship has broken.

In view of above, the petition is allowed. Petitioner is directed to appear before the SHO/Investigating Officer to join investigation on 23.01.2021 and in the event of his arrest, he shall be released on anticipatory bail on his furnishing adequate bail bonds/surety bonds to the satisfaction of SHO/Investigating Agency subject to the following conditions as envisaged under

Section 438(2) Cr.P.C:-

- i) that the petitioner shall make himself available for interrogation before the Investigating Officer as and when required;
- ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;
- iii) that the petitioner shall not leave the country, without prior permission of the Court and shall surrender his passport, if any.

21.01.2021
Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

- 1. Whether speaking/reasoned : Yes/No
- 2. Whether reportable : Yes/No