

213

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39689-2020

Date of Decision: 09.02.2021

Sonu Malik

.. Petitioner

Vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Randeep S. Dhull, Advocate for the petitioner.

Kanwar Sanjiv Kumar, AAG, Haryana.

Mr. Sumit Singh Bairagi, Advocate
for the complainant.

...

Manoj Bajaj, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail, pending trial in case FIR No.430 dated 14.10.2020, registered under Sections 376 and 506 IPC, 1860 at Police Station Indri, Karnal, District Karnal. The petitioner is in custody since his arrest on 24.10.2020.

The FIR was registered on the basis of complaint given by complainant Chesta Devi, wherein she stated that her husband Rahul had died on 27.10.2017 and has two children. She knew Sonu before her marriage, but when Sonu came to know about the death of her husband, he started telephonic conversation with her and induced her by promising to marry her and to adopt her children. She trusted him and started talking telephonically, who asked her to meet him and promised to marry and on this pretext made physical relations with her. After that whenever she met him, she asked for marriage, but he used to say that he will talk to his parents and kept on making physical relations with her on the pretext of

marrying her. One day, when she forced Sonu to get married, he said that he is already married and refused to marry her. When she refused him for making physical relations, then he forcibly raped her and threatened that if she would tell this to anyone then he would kill her and her children. The accused also threatened that he would make her photographs and videos viral on social media. On these broad allegations, the abovesaid FIR was registered.

Learned counsel for the petitioner has argued that as per the allegations in the FIR itself, the complainant was known to the petitioner even prior to her marriage with Rahul and started telephonic conversation with him. He has further argued that after the death of her husband, she willingly entered into relationship with the petitioner and the present FIR has been lodged by the complainant to falsely implicate him. According to him, the investigation of the case is complete, therefore, further custody of the petitioner may not be necessary and prays for bail.

The prayer is opposed by learned counsel for the complainant on the ground that the petitioner concealed the factum of his marriage and entered into relationship with the victim on the promise of marriage. He has drawn the attention of the Court to the vernacular (Annexure P-2) i.e. a copy of the Register maintained by the District Notary, Kurukshetra to contend that against item No.924, the petitioner has not disclosed the fact that he is already married. According to the learned counsel for the complainant, the consent was obtained by the petitioner on the basis of false promise and, therefore, he does not deserve the concession of bail.

Learned State counsel assisted by ASI Kitabo Devi, has also opposed the prayer on the ground that the petitioner is specifically named in

the crime, however, on instructions, he states that the final report has been filed, but the charges are yet to be framed.

At this stage, learned counsel for the petitioner has invited the attention of the Court to the entry No.925 recorded in Annexure P-2 and contended that the complainant has herself mentioned that she has been residing with the petitioner since 2019 in live-in relationship with her free will.

After hearing the learned counsel for the parties and considering the above background, this Court finds that the investigation of the case is complete, as the final report has been filed before the Court, but the trial is yet to commence. It is not disputed by both the parties that the complainant and the petitioner were in relationship, but the stand of the complainant that the said consent was obtained by making a false promise would be a matter of trial, which may take considerable time to conclude, therefore, this Court is of the opinion that the further detention of the petitioner behind the bars may not be justified, as there does not seem to be any possibility of winning over the material witnesses.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate Karnal.

09.02.2021
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No