

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

CRM-M-8143-2022

Date of Decision: 6.4.2022

Rakesh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Chanderhas Yadav, Advocate, for the petitioner.
Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.
Mr. Diwan S. Adlakha, Advocate, for the complainant.

Rajesh Bhardwaj, J. (ORAL)

This is the second petition filed by the petitioner for grant of regular bail in a case FIR No.231 dated 21.9.2021, registered under Sections 323, 377, 506 IPC (Sections 450, 376-n, 494 IPC added later on) at Police Station Kharar, District SAS Nagar, Mohali.

As per factual matrix of the case, the FIR in question was lodged by the prosecutrix/victim herself (name concealed), wherein, the sum and substance of the allegations in the FIR is that the accused Rakesh exploited her on the pretext of marriage and played a fraud with her by performing the second marriage. It was alleged that the complainant was earlier married to one Amit Kumar, from whom she has taken divorce and has a daughter also from earlier husband. Thereafter, she came in contact with the accused Rakesh, who told her that he is employed with Indian Air Force and posed in Gujrat. While the accused was on leave, he called her to meet on the pretext of marriage and thereafter, he established physical relations with her. Thereafter, he kept on making physical relations with the prosecutrix on the false pretext of marriage itself. Ultimately, on 5.7.2019, he performed marriage with the prosecutrix and they started residing as

husband and wife. However, later on she came to know that the accused was already married with one girl Pooja and this fact was concealed by the accused from the prosecutrix. It was alleged that he kept exploiting the prosecutrix for three years by concealing the factum of his earlier marriage. Request was made to take legal action against the accused for committing fraud with the prosecutrix. On the commencement of the investigation, the petitioner was arrested on 6.10.2021. He approached the Special Court, SAS Nagar, Mohali for the grant of bail, who after hearing the parties, declined the same vide its order dated 15.11.2021. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of regular bail.

It has been contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. It has been submitted that the petitioner was in live-in-relationship with the prosecutrix and there was no marriage as contended by the prosecutrix. He further submits that even from the allegations made in the FIR, the prosecutrix has alleged that she was the legally wedded wife of the petitioner, hence, offence under Section 376 IPC would not be attracted in the present case. It has been submitted that the petitioner is behind bars from the last more than 6 months and hence, he deserves to be granted bail.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner and submitted that there are specific allegations levelled by the prosecutrix against the petitioner. She submits that the case was thoroughly investigated and allegations were found substantiated against the petitioner. It has been submitted by learned State counsel that in all there are 18 prosecution witnesses and none of them has

been examined so far. She further submits that the petitioner is a Soldier in Indian Air Force and committed fraud with a innocent girl and thus, he deserves no leniency.

Heard.

The prosecutrix has specifically alleged that she came in contact with the petitioner after having taken divorce from her first husband. It has been alleged that the petitioner established physical relations with the prosecutrix on the pretext of marriage. The petitioner kept on exploiting the prosecutrix physically by concealing the very fact that he was already married. Though he performed marriage with the prosecutrix by concealing the fact of his earlier marriage, the stand taken by the petitioner regarding the live-in-relationship with the prosecutrix *prima facie* appears to be an afterthought to wriggle out of the prosecution in the present FIR. Out of total 18 prosecution witnesses, none has been examined so far.

In view of the attending facts and circumstances of the case, this Court is of the opinion that grant of bail to the petitioner at this stage would prejudice the on going trial and thus, this Court finds no merits in the present petition for granting the bail to the petitioner and the same being devoid of any merit is hereby dismissed.

6.4.2022
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No