

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

**CRM-M No.9481 of 2022
Date of decision : 11.05.2022**

Shani Singh

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Santosh K. Tripathi, Advocate
for the petitioner.

Mr. Sumit Jain, Addl. Advocate General, Haryana
for the respondent/State.

PANKAJ JAIN, J. (ORAL)

By way of present petition filed under Section 439 of the Code of Criminal Procedure the petitioner is seeking regular bail in case FIR No.297, dated 8th November, 2021, registered under Sections 195-A/376/506 of the Indian Penal Code, at Police Station Sarai Khawaja, District Faridabad.

2. The FIR was lodged at the behest of prosecutrix, aged 26 years, who suffered an affidavit which is appended to the present petition as Annexure P-2 and reads as under :-

“Affidavit

I, XXXX d/o Sh. Purshottam, r/o Village Barsana, P.S. Barsana, District Mathura, Uttar Pradesh now resident of Gali No.5, House of Bishan Chudhary Village Anangpur Dairy, P.S. Sarai Khawaja, Faridabad and solemnly affirm as

under :-

1. *That I am the resident of above said address.*
2. *That I, the deponent had given a complaint against Shani s/o Nanhepal Singh and on this complaint FIR No.297 dated 18.11.2021 u/s 195A/376/506 of IPC was registered at Police Station Sarai Khawaja, Faridabad.*
3. *That Shani s/o Sh. Nanhepal has given assurance and trust to the deponent that he would keep the deponent as his wife and both would reside together as husband and wife.*
4. *That now all the misunderstanding has been resolved between us and if the Hon'ble Court is granted bail to Shani then the deponent would have no any objection.*
5. *That this affidavit has been furnished by me with my own sweet will and full consciousness and without any fear or compulsion so that the same would be known and will be kept in record for future.*

LTI Deponent/-

Verification :-

This is to certified that the above said affidavit are true and correct to my knowledge and belief and no any material kept or concealed therein.

LTI Deponent/- ”

3. Today, Ld. State Counsel has filed status report by way of an affidavit of Devender Kumar, HPS, Assistant Commissioner of Police, Sarai, District Faridabad along with accompanying annexures, in Court,

which is taken on record. It has been stated therein that -

“8. That as per record, the petitioner/accused is found involved in following other criminal cases/FIRs, details of which are given as under :-

(i) FIR No.327 dated 07.12.2021 under Section 452, 323, 506 IPC, Police Station Sarai Faridabad, which pending on 23.05.2022 for prosecution evidence in the court of Ld. ACJM, Faridabad.

(ii) FIR No.819/2019 under Sections 376, 506 IPC, Police Station Dhankaur, Gautambudh Nagar, U.P., which is pending in the court of Ld. Additional District Judge, Gautambudh Nagar, U.P.”

4. Ld. Counsel for the petitioner would contend that in fact it is a case where the petitioner as well as the prosecutrix were living as husband and wife in a consensual relationship. Owing to some differences, the present FIR has been lodged. He further contends that earlier also two FIRs were lodged at the behest of the prosecutrix which have been mentioned in Para No.8 of the reply filed by the State (supra). His contention is that rather the fact that even after registering the FIR in 2019 that too under Section 376 of the IPC the prosecutrix continued to live with the petitioner, falsifies the whole case.

5. Mr. Sumit Jain, Addl. Advocate General, Haryana is not in a position to dispute the factum w.r.t. tendering of the affidavit by the

prosecutrix, Annexure P-2, but submits that keeping in view the record of the petitioner, he does not deserve concession of bail.

6. I have heard Ld. Counsel for the parties and have carefully perused the case record.

7. This Court is of the considered opinion that owing of the fact that the parties are in continuous live-in-relationship between them and the fact that prosecutrix herself has tendered affidavit, Annexure P-2, as also the fact that the petitioner has already undergone incarceration of around 5 months, the petitioner is held to be entitled for concession of regular bail. Accordingly, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

8. Nothing observed herein shall be construed to be an expression of an opinion on the merits of the case.

May 11, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No