

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

CRM-M-11019-2022

Date of Decision: 21.03.2022

AMAR SINGH

... PETITIONER

VS.

STATE OF HARYANA

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. S.K.Bishnoi, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

VIVEK PURI, J.(ORAL)

The matter has been taken up through video-conferencing due to COVID-19 pandemic.

The petitioner is seeking regular bail in case bearing FIR No.050 dated 19.09.2021 under Sections 376 (2) (n), 34, 450, 506 IPC and Section 313 IPC (Added later on) registered at Women Police Station, District Sirsa.

In pursuance of advance notice, Mr. Vikas Bhardwaj, AAG, Haryana, has joined the proceedings and placed on record custody certificate.

Briefly, the FIR has been registered on the basis of the statement of the prosecutrix alleging that she is a married woman and having two children, aged about 8 years and 4 years. She was having dispute with her husband. On 16.02.2018, the petitioner came to the house to pick the articles and at that time, the husband of the prosecutrix was not present in the house and had gone for the work. The petitioner committed forcible wrong act with the prosecutrix as she was alone in the house and

further asked her to take divorce from the husband and he will solemnize the marriage. In June, 2018, the husband of the prosecutrix was away from the village, the petitioner visited her and made relations on the pretext of solemnizing marriage. The petitioner had been continuously doing wrong act with the prosecutrix by giving false promises to solemnize marriage. Even threats were given to kill the prosecutrix.

Learned counsel for the petitioner contends that there is a delay of more than two years in lodging the FIR and there is no supporting medical evidence.

On the contrary, it has been argued by the learned State counsel that subsequently, the offence under Section 313 IPC has also been added, the petitioner had been taking undue advantage of differences in the relationship of the prosecutrix with her husband and had been sexually exploiting her on the false pretext of solemnizing marriage with her.

Custody certificate indicates that the petitioner has undergone custody only for a period of 04 months and 05 days. The trial of the case is at the initial stage. The statement of the prosecutrix is yet to be recorded and there are serious allegations with regard to commission of forcible sexual intercourse on the false pretext of solemnizing marriage.

It will be too early to disbelieve the version of prosecution on the ground that there is delay in lodging the FIR and this aspect of the matter is to be looked into by the trial Court at the appropriate stage of the trial. Moreover, there is specific and categoric allegation to the effect that the brother of the petitioner had extended the threats to kill the prosecutrix. The lurking fear in the mind of the prosecutrix might have prevented her from reporting the matter to the police. Furthermore, it cannot be said at this

stage that the allegations of the prosecution are to be discarded on the score that there is no medical evidence to support the case of the prosecution, particularly, because the statement of the prosecutrix is yet to be recorded and the evidentiary value thereof is to be seen at the appropriate stage. The petitioner had been repeatedly sexually exploiting the prosecutrix for a period of about two years on the false pretext of solemnizing marriage and also threatening her.

Keeping in view the entire circumstances of the case, no justified ground is made out to extend the concession of bail to the petitioner.

Dismissed.

21.03.2022
smriti

(VIVEK PURI)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No