

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 216

CRM-M-17878-2022

Date of decision : 06.07.2022

Adnan Khan

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Priyanshu Kamra, Advocate, for the petitioner.

Ms.Sheenu Sura, DAG, Haryana.

DEEPAK SIBAL, J. (ORAL)

The present petition has been filed by the petitioner under Section 439 Cr.P.C. for the grant of regular bail in FIR No.78 dated 16.03.2021 registered under Sections 376(2)(n), 323 and 506 IPC at Police Station DLF Phase-III, District Gurugram.

Briefly stated, the case of the prosecution is that the prosecutrix was enticed by the petitioner into a relationship (which included physical relations) on the pretext of marriage. However, the prosecutrix later came to know that the petitioner has withheld from her the fact that he was already married with two children. The petitioner is also alleged to have given beatings to the prosecutrix.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case only when the consensual relations between the petitioner and the prosecutrix turned sour; the petitioner has no other criminal case pending against him; he is in custody since 18.03.2021; the prosecutrix while appearing before the Trial Court has categorically stated that the petitioner and the prosecutrix were always in a consensual relationship and that he neither committed rape upon her nor did he give her any beatings and in the light of the afore submissions further incarceration of the petitioner is not warranted.

Learned State counsel opposes grant of bail to the petitioner on the ground that he is alleged to have raped a girl on the pretext of marriage as also has

given her beatings.

While appearing before the Trial Court as PW-11 the prosecutrix, in her cross examination, has stated as under: -

“It is correct that I and accused were having consensual physical relationship. It is correct that accused never gave me beatings at any point of time. It is also correct that accused never having relationship with other girls. It is also correct that accused never committed rape upon me on the pretext of false promise of marriage. It is correct that I am having love affair with accused. It is also correct that accused never forced me to develop physical relations with her.

At this stage, learned PP requested to re-examine the witness as she is resiling from her previous statement dated 10.11.2021. Request allowed.
XXXXXX Re-examination by learned PP for the State.

Que Whether the statement/deposition dated 10.11.2021 was true or the facts disclosed by you are correct?

Ans Statement given by me today is true and correct and my earlier statement dated 10.11.2021 was incorrect since I have deposed the above mentioned statement due to my temperamental differences with accused and due to some misunderstanding.

At the time of giving complaint **Ex.P15** and statement under section 164 Cr.P.C. **Ex.P16** due to reason mentioned above mentioned and the fact deposed by me before the court today is correct.

It is correct to suggest that my previous statement dated 10.11.2021 given in court during examination-in-chief was voluntarily and without any threat or pressure. It is correct to suggest that today I am deviating from the contents of my complaint **Ex.P15** and my statement under Section 164 Cr.P.C. **Ex.P16** and my previous statement dated 10.11.2021 given in this Hon'ble Court as compromise has taken place between me and accused Adnan Khan or that I am deposing falsely in order to save the accused from legal punishment.”

In the light of the above statement of the prosecutrix and because the petitioner is already in custody since 18.03.2021 as also because the petitioner does not face any other criminal case, further incarceration of the petitioner is considered unnecessary. Therefore, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Gurugram, the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

06.07.2022
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No