

VIKRAM

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Kamal Chaudhary, Advocate for the petitioner.

Mr. Zorawar Singh Chauhan, DAG Haryana.

Mr. Rajat Mor, Advocate for the complainant.

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VIVEK PURI, J. (ORAL)

The petitioner is seeking regular bail in case bearing FIR No. 376 dated 27.07.2021 under Sections 34, 506, 376(2)(n) IPC and Section 3(1)(s), 3(1)(w), 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Section 34 of IPC deleted later on, registered at Police Station Hisar City, District Hisar.

Custody certificate has been placed on record.

Briefly, the FIR has been lodged by the prosecutrix against the petitioner, father, cousin and brother of the petitioner alleging that the petitioner had developed physical relationship with her on the false pretext of marriage. Subsequently, the petitioner refused to solemnize marriage on the pretext that the prosecutrix belongs to Scheduled Caste. Furthermore, the petitioner had been exploiting the prosecutrix and getting money from her.

Learned counsel for the petitioner contends that the allegations are to the effect that physical relationship was developed way back on 09.07.2017 and it continued till the year 2021 and the FIR has been lodged on 27.07.2021. The FIR has been lodged on the basis of the false allegations. Subsequent to the registration of the present FIR, the sister of the prosecutrix had also levelled allegations with regard to commission of offence under Section 376 IPC on the similar allegations against Amarjit, the brother of the petitioner and FIR was also registered. However, after investigation, the case was found to be false one and cancellation report has been submitted. After the investigation of the case, the challan has been presented only against the petitioner and his relatives have been found innocent. The statement of the prosecutrix in the trial Court has been recorded and the application under Section 319 Cr.P.C. for summoning the relatives of the petitioner has been dismissed by the trial Court. The petitioner is in custody for a period of 1 year and 25 days.

Learned State counsel and the learned counsel for the complainant have opposed the bail application on the score that while appearing in the witness-box, the prosecutrix has supported the prosecution version and testified with regard to the allegations against the petitioner.

The learned State counsel further submits that the report of the FSL in the instant case is negative and so far, only 1 out of 15 witnesses has been examined. It has not been disputed that the prosecutrix was aged more than 18 years at the time of occurrence.

As per the allegations of the prosecutrix, the petitioner had been in physical relationship with her for a period of about 4 years on the false pretext of solemnizing marriage. The petitioner had projected that he was

owner of 50 acres of agricultural land and by such representation, he had developed physical relationship on the pretext of solemnizing marriage. Although there are allegations to the effect that the petitioner had also been getting some cash amount from the prosecutrix but there is no document to indicate any such transaction and offence under Section 406 IPC has not been invoked in the instant case. Though, the petitioner is involved in a case under Section 42-A of the Prisons Act but it is significant to note that he is in custody for a period of 1 year and 25 days and only 1 out of 15 witnesses has been examined so far. As the prosecutrix has been examined, it cannot be said that the petitioner can in any manner try to win over or influence the witnesses. The conclusion of trial is likely to take some more time and no fruitful purpose would be served by detaining the petitioner in further custody.

As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

15.09.2022

Janki

(VIVEK PURI)
JUDGE

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