

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

234

CRM-M No.21997 of 2022 (O & M)
Date of decision:28.07.2022

Gurwinder Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Kanwaljeet Singh, Advocate
for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

Mr. Inder Pal Singh, Advocate
for the complainant.

SUVIR SEHGAL J. (ORAL)

CRM No.20482 of 2022

Prayer made in the application for preponement has become
infructuous as the main case is being taken up.

Dismissed as infructuous.

Main Case

This is the first petition filed by the petitioner under Section
439 of the Code of Criminal Procedure, 1973, for grant of regular bail in
case FIR No.72 dated 13.03.2020 registered under Section 376 of IPC,
however, Sections 420, 376 (2) (n) and 313 of IPC were added later on,
at Police Station Sadar Dhuri, District Sangrur.

As per the case of the prosecution, FIR, Annexure P-1, has been registered on the statement of the prosecutrix (name withheld) on the allegation that after her first marriage ended in a divorce, she came in contact with Gurwinder Singh (present petitioner), who developed physical relationship with her on the pretext of marriage and when she became pregnant, he forced her to abort the fetus. She has also alleged that he has swindled her of Rs.70,000/- and has refused to marry her.

Counsel for the petitioner contends that after the registration of the FIR, marriage of the prosecutrix has been solemnized with the petitioner on 02.12.2021 and the prosecutrix is staying at her matrimonial home. He submits that not only she has a child out of this wedlock, but she is also pregnant for the second time. He submits that the marriage was solemnized prior to the arrest of the petitioner on 28.04.2022. He submits that a petition (CRM-M-19356-2020) has been separately instituted for quashing the FIR and reference has also been made by him to the statements of the parties recorded in support of the compromise.

On the basis of the status report filed by way of an affidavit of Deputy Superintendent of Police, Sub-Division Dhuri, District Sangrur, State counsel has confirmed the matrimony. She has referred to the Marriage Certificate, appended as Annexure R-1 with the status report. Still further, he submits that *challan* has been presented and charge is yet to be framed.

Counsel for the complainant has supported the prayer made in the petition and has admitted the factum of marriage.

Keeping in view the fact that the parties have tied the knot and are living together, but without commenting upon the allegations levelled in the FIR, this Court is *prima facie* of the view that the petitioner would be entitled to be released on bail.

Without advertng to the merits or de-merits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be enlarged on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

28.07.2022

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(SUVIR SEHGAL)

JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No