

217

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-29358-2022

Date of Decision: 07.09.2022

SATPAL SINGH

... PETITIONER

V/S

STATE OF PUNJAB AND ANOTHER

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr.R.S.Bhatta, Advocate for the petitioner.

Ms. Ruchika Sabherwal, DAG Punjab.

Mr. Vipul Babuta, Advocate for

Mr. D.S.Khurana, Advocate for respondent No.2.

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VIVEK PURI, J. (ORAL)

The petitioner is seeking regular bail in case bearing FIR No. 80 dated 30.04.2022 under Section 376 IPC, registered at Police Station Vairoke, District Fazilka.

Custody certificate has been placed on record.

Briefly, as per the allegations in the FIR, on 03.04.2022 the petitioner had taken the prosecutrix, who is aged about 19 years to Rajasthan after administering her some stupefying material in a drink. The prosecutrix became unconscious and when she regained consciousness, it was found that she was wearing *chura*. The petitioner kept her roaming in the state of Rajasthan for a period of 21 days and had been making physical relations without her consent.

Learned counsel for the petitioner contends that the age of the prosecutrix is more than 18 years and she had voluntarily solemnized

marriage with the petitioner on 10.04.2022. Annexure P-2 is the copy of the marriage certificate, Annexure P-3 are the photographs to indicate that the relationship between the petitioner and the prosecutrix was consensual. The prosecutrix had also submitted an application, Annexure P-4 on 10.04.2022 to the Senior Superintendent of Police, Fazilka alleging that she has solemnized marriage with the petitioner and was apprehending danger to her life and liberty at the hands of her parental family members. The petitioner along with the prosecutrix had also filed a writ petition in this Court for protection of life and liberty. The investigation of the case is complete and the challan has been presented. Furthermore, the petitioner is in custody for a period of 3 months and 26 days. Although he is involved in another case under Punjab Excise Act but is on bail in that case. Even the dispute has been amicably settled with the prosecutrix and she is to reside with the petitioner in the matrimonial house.

Learned State counsel has opposed the bail application on the score that there is categorical statement of the prosecutrix on the basis whereof, FIR has been registered wherein the allegations of forcible sexual intercourse have been attributed. It will be too early to conclude that the prosecutrix had solemnized marriage with the petitioner and moreover, no witness has been examined till date.

Learned counsel appearing for the complainant also acknowledges the fact of amicable settlement and has also affirmed that the prosecutrix shall be residing along with the petitioner in the matrimonial house as they have solemnized marriage.

The prosecutrix is aged more than 18 years and the material on record is indicative of the fact that she has solemnized marriage with the

petitioner. It will be a debatable and moot point during the course of trial as to whether the prosecutrix was a consenting party or not. Moreover, an amicable settlement has also been effected. The investigation of the case is complete, the challan has been presented and charge has also been framed. However, no witness has been examined till date. The conclusion of trial is likely to take some time.

In the peculiar circumstances of the case, 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.

07.09.2022

Janki

**(VIVEK PURI)
JUDGE**

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