

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(105+213)

CRM-M-34813-2021(O&M)
Date of Decision: 31.08.2022

Gurpiar Singh

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Deepak Gupta, Advocate for the petitioner.

Mr. Karunesh Kaushal, A.A.G., Punjab.

Complainant in person with Ms. Jasmeet Mehra,
Advocate.

RAJESH BHARDWAJ.J (Oral)

CRM-31501-2022

Application is allowed as prayed for.

Annexure P-5 is taken on record.

Main Petition

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.006 dated 5.1.2021 under sections 313, 376(2)(n), 376D, 506, 120-B IPC, registered at Police Station, Sohana, District SAS Nagar, Mohali.

As per factual matrix, the FIR in question was lodged by the prosecutrix (name concealed), wherein it was alleged that she came in contact with one Nirmal Singh in December, 2019, who introduced her to Gurpiar Singh i.e. the present petitioner, Ruby Chahal and Gunraj. It was told to her that Gurpiar Singh was running an institute which was well known in Chandigarh and Mohali and that he would give her a good job.

After a couple of meetings both became good friends and petitioner/accused promised to marry her. In June, 2020 on the eve of New Year Gurpiar Singh gave her a drink and took her to a flat, where he established physical relations with her. On her resistance he promised to marry her. After some time she became pregnant, however, her pregnancy was terminated forcibly. The prosecutrix filed a criminal writ petition being CRWP-7045-2020 and thereafter with the intervention of the respectables a compromise was effected between the petitioner and the prosecutrix. Resultantly, the marriage took place between the petitioner and the prosecutrix. However, immediately after the marriage petitioner along with his parents started harassing the prosecutrix and she found cheated by the petitioner and hence the present FIR was lodged to take legal action against the culprits.

The investigation commenced and petitioner was arrested on 13.4.2021. He approached learned Judge, Special Court, SAS Nagar, Mohali for grant of bail, however, after hearing the parties, the same was declined vide order dated 26.7.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in the present case. He submits that both petitioner and the prosecutrix are of the age of majority and they had consensual relationship and thus no offence under section 376 IPC is attracted. Counsel submits that as per allegations the physical relationship was established on the promise of marriage, however, subsequently the marriage was also performed by the petitioner with the prosecutrix and thus the petitioner has honored the promise made to the prosecutrix. He submits

that both petitioner and prosecutrix are husband and wife. It is further submitted that learned Trial Court has already examined the prosecutrix as PW-1 and she has not supported the case of the prosecution and thus she has been declared hostile by the Trial Court. He submits that once the prosecutrix herself has not supported the case of the prosecution, petitioner deserves to be granted the benefit of bail.

Learned counsel for the complainant has opposed the submissions made by counsel for petitioner. The complainant is also present in court with her counsel. Counsel submits that the petitioner in a clandestine manner has cheated the prosecutrix. She submits that the petitioner physically exploited the prosecutrix for a considerable long time on the promise of marriage. During that time prosecutrix became pregnant, however, her pregnancy was forcibly terminated and she was assured of marriage by the petitioner. Though the marriage was performed by the petitioner, however, it was realized that same was performed only in order to wriggle out of any criminal action against the petitioner. Soon after the marriage the prosecutrix was abandoned. It is submitted that the petitioner has physically exploited the prosecutrix before entering into the marriage and the offence under section 376 IPC is straightway attracted. Counsel submits that prosecutrix/complainant resiled from her statement under the threat of the petitioner. She submits that the petitioner has cheated the prosecutrix and he does not deserve any leniency by this court.

On the other hand, learned State counsel submits that petitioner is playing hide and seek since beginning. He submits that the marriage was performed with the prosecutrix only to save his skin from the criminal

proceedings, however, his behaviour before the marriage and after the marriage with the prosecutrix is evident enough to show his intentions. He submits that out of total 17 prosecution witnesses only one has been examined so far and granting bail to the petitioner at this stage would prejudice the ongoing trial.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, both petitioner and prosecutrix were in consensual relationship for a considerable long time. The petitioner allegedly established physical relations with the prosecutrix on the promise of marriage. The prosecutrix also became pregnant, however, her pregnancy was forcibly terminated. Complainant/prosecutrix is also present in court with her counsel and has opposed the submissions made by counsel for petitioner. Out of the total 17 prosecution witnesses only one has been examined so far and rest of the witnesses remain to be examined.

In the totality of facts and circumstances and without making any observation on merits, this court finds that granting bail to the petitioner at this stage would prejudice the ongoing trial and thus the present petition being devoid of any merit is dismissed. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

31.08.2022

lucky

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