

CRM-M-31045-2022

Date of Decision: 25.07.2022

BALKAR SINGH

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. K.S.Derabassi, Advocate for the petitioner.
Mr. Hittan Nehra, Addl. A.G. Punjab.

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VIVEK PURI, J. (ORAL)

Custody certificate has been taken on record.

The petitioner is seeking regular bail in case bearing FIR No. 161 dated 16.05.2022 under Sections 376/506 IPC, registered at Police Station Dera Bassi, District SAS Nagar.

Briefly, the FIR has been registered on the allegations that the marriage of the prosecutrix was solemnized on 20.06.2016 and the divorce petition is pending in the District Court at Chandigarh. The prosecutrix is residing in the parental house and the petitioner is residing in their neighbourhood. The petitioner had convinced the prosecutrix to solemnize marriage with her. They developed physical relationship. It has been alleged that the petitioner had been committing rape upon the prosecutrix.

Learned counsel for the petitioner contends that the relationship between the petitioner and the prosecutrix was consensual. The petitioner is still ready and willing to solemnize marriage with the prosecutrix after her earlier marriage is dissolved by a decree of divorce by the competent Court of law. The custodial interrogation of the petitioner is over and he has been remanded to judicial custody.

Learned State counsel has opposed the bail application on the

score that there are specific and categoric allegations levelled against the petitioner.

Be that as it may, there is categoric version in the FIR to the effect that the petitioner and prosecutrix were in relationship as husband and wife. It will be a debatable and moot point during the course of trial as to whether any such physical relations were developed on the false pretext of solemnizing marriage. It will be too early to conclude that the petitioner had refused or backed out from any such promise particularly, because the divorce petition of the prosecutrix against her husband is still pending adjudication in the Courts at Chandigarh. It remains a fact that the marriage of the prosecutrix is still subsisting. Consequently, the petitioner cannot solemnize marriage with her. The custodial interrogation of the petitioner is over and he has been remanded to judicial custody. The conclusion of investigation and trial and presentation of challan is likely to take some time. The petitioner is not involved in any other case. 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.

(VIVEK PURI)
JUDGE

25.07.2022

Janki

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