

**209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-32445-2020

Date of decision : 13.05.2022

Gurpreet Singh

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Brijesh Nandan, Advocate
for the petitioner.

Mr. Rakeshinder Singh Sidhu, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.157 dated 22.06.2019, under Sections 498-A and 109 of IPC (Sections 376-D, 506, 148, 149 later on added Vide G.D. No.32 dated 01.07.2019), registered at Police Station Jandiala, District Amritsar.

Adumbrated facts of the case are that the present FIR was lodged by the prosecutrix (name concealed). As per the allegations, the prosecutrix and the accused Gurpreet Singh belong to the same Village Killa Jeewan Singh. It was alleged that Gurpreet Singh in connivance with Sawinder Singh @ Sally committed rape upon the prosecutrix in September, 2018. Thereafter, before the Village, both of them accepted their mistake and they decided that the prosecutrix would be married to Gurpreet Singh i.e. the petitioner and on doing so, the prosecutrix would withdraw the complaint. Accordingly, the compromise was effected and the prosecutrix was married with Gurpreet Singh as per the Sikh Rites and Rituals on 28th October, 2018. Thereafter, the prosecutrix and Gurpreet Singh started residing as husband and wife. However, later on, after the

marriage, Gurpreet Singh started causing harassment to the prosecutrix. It was said to her that the marriage has been performed only to wriggle out the criminal case. He used to beat the prosecutrix and kept threatening to eliminate her. She was warned time and again that she could not do anything to him and his accomplice Sawinder Singh @ Sally and the family members. Thereafter, she was abandoned by Gurpreet Singh and his family. Having no other option, she filed the present FIR to take the legal action against the culprits. On lodging of the FIR, the investigation commenced and the statement under Section 164 Cr.P.C. of the prosecutrix was also recorded. Petitioner was arrested on 3rd August, 2019. On commencement of the investigation, the challan was presented, charges were framed and the Court started examination of the witnesses. The petitioner approached the Court of learned Additional Sessions Judge, Fast Track Court, Amritsar praying for grant of bail. After hearing counsel for the parties, learned Additional Sessions Judge declined the same vide order dated 29th June, 2020. Aggrieved by the same, the petitioner is before this Court praying for grant of bail.

Learned counsel for the petitioner submits that the petitioner has been falsely and frivolously implicated in this case. He submits that the petitioner and the prosecutrix both are of the age of majority. He has submitted that the prosecutrix was also married and she did not even take divorce from her first husband. However, thereafter, she came in relationship with the petitioner. He submits that as per the allegations itself, the petitioner and the prosecutrix were duly married and once, there is a relationship of husband and wife, there was no question of prosecuting the petitioner for the offence of rape. He submits that the alleged dispute took place between the petitioner and the prosecutrix after having contracted the

marriage. A matrimonial dispute has been given the colour of rape by making cock and bull story. He submits that even otherwise, as per the allegations, the alleged occurrence took place one year prior to the lodging of the FIR and that in itself falsified the case of the prosecution. He submits that during investigation, the prosecutrix was medically examined and as per the medical report, the ocular version of the prosecutrix is not medically corroborated. He submits that out of the total four accused, rest three accused are already on bail. The petitioner is behind bars since 3rd August, 2019 and till date the trial is at the threshold. He submits that the prosecutrix is intentionally delaying the trial so as to prolong the incarceration of the petitioner who has been falsely implicated in this case. He submits that the prosecutrix was not only married but she is mother of two children from the previous marriage. He submits that the trial Court has now fixed the case for examination of the witnesses and keeping in view the long custody of the petitioner along with the overwhelming facts and circumstances of this case, the petitioner deserves to be enlarged on bail.

Learned State counsel has opposed the submissions made by counsel for the petitioner. He, on instructions from ASI Jagdeep Singh, submits that there are specific allegations against the petitioner. He submits that petitioner exploited the plight of the prosecutrix and thereafter, they entered into marriage only in order to save their skin from the criminal case. However, he submits that the petitioner is behind bars since 3rd August, 2019 and till date out of 27 prosecution witnesses, only one doctor has been examined and examination-in-chief of the prosecutrix is also recorded.

I have heard learned counsel for the parties and perused the record.

Petitioner is behind bars since 3rd August, 2019. As per the allegations itself, the prosecutrix was earlier married and she is mother of two children. She came in relationship thereafter with the petitioner and admittedly, both of them performed the marriage as well. The rest of the co-accused have already been enlarged on bail. Whether the offence under Section 376 IPC is attracted or not would lie in the domain of the learned trial Court on the appreciation of the evidence to be led before it. However, the Court cannot lose the sight from the fact that the petitioner has virtually completed more than 2 ½ years behind bars and till date one witness have been examined out of 27 witnesses. There is nothing on record showing that the petitioner has any criminal antecedents or he has been involved in any of the criminal case from the earlier occasion.

The trial of the case will take sufficient long time and no useful purpose will be served by keeping the petitioner in custody for such a long time. Keeping in view the facts and circumstances of the case, this Court finds that counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

13.05.2022
m. sharma

(**RAJESH BHARDWAJ**)
JUDGE

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