

**230 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH**

CRM-M-33702-2022 (O&M)

Date of Decision: 05.08.2022

SACHIN

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Sandeep S. Majithia, Advocate
for the petitioner.

Mr. Zorawar Singh Chauhan, DAG Haryana.

VIVEK PURI J. (Oral)

This is first petition under Section 439 Cr.P.C. praying for grant of regular bail to the petitioner in case FIR No. 11 dated 23.02.2022, under Sections 376(2) (n) IPC, registered at Police Station Women Assandh, Karnal (Annexure P-1).

Custody certificate filed and the same is taken on record.

Learned counsel for the petitioner contends that the prosecutrix is a married lady and aged about 22 years. She was not on good relations with her husband. She has sought to put forth the allegation that the petitioner has developed physical relations with her on the false pretext of marriage. Furthermore, it sounds improbable that she will remain in the Aunt's house of the petitioner for a period of about 9 months. The allegation in the FIR is also to the effect that on 25.01.2022, the mother of the petitioner dropped her at Karnal Railway Station. Thereafter, the FIR has been lodged after a delay of 1 month.

The mother of the petitioner has been found to be innocent in the investigation. Challan has already been presented against the petitioner. Besides, it is a case of consent. The marriage of the petitioner with her husband is still subsisting. It is highly improbable that the petitioner could have deceived a married lady and entered into sexual relationship with her on the false pretext of marriage. In fact, the petitioner and the prosecutrix were in live-in relationship, which is made out from the live-in relationship agreement (Annexure P-2).

Learned State Counsel on the other hand opposed the application for regular bail on the categoric allegation of sexual intercourse on the false pretext of marriage attributed against the petitioner and moreover, the prosecutrix is yet to be examined in the trial Court.

Be that as it may, the prosecutrix is a married lady. It will be a debatable point during the course of trial that as to whether she could have been deceived and the petitioner could have entered into sexual relationship with her on the false pretext of marriage. Moreover, the petitioner has also set up a categoric case of live-in relationship and to substantiate the same, the mutual deed of live-in relationship (Annexure P-2) has also been placed on record. The petitioner is in custody for a period of about 5 months and not involved in any other case. Investigation of the case is complete and challan has been presented in the Court. Trial is likely to take some time. The genuineness of the rival allegations has to be adjudicated during the

course of trial.

As such, sufficient mitigating circumstances are made out to grant the petitioner, concession of bail. 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 requisite bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

05.08.2022
Ajay Goswami

(VIVEK PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No