103+223 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-33382-2020 (O&M)
Date of decision : 19.04.2022

Aman Rana @ Amandeep **....Petitioner**

versus

State of Punjab **..... Respondent**

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

Present :- Mr. Rajender Kumar, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

Mr. Sanjeev Majra, Advocate
for the complainant.
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RAJESH BHARDWAJ, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner in case FIR No.271 dated 16.08.2020, under Sections 376, 354-A, 354-D, 506 of the Indian Penal Code, registered at Police Station Sohana, District SAS Nagar (Mohali).

As per the factual matrix of the case, the present FIR was lodged by the prosecutrix (name concealed). The sum and substance of the allegations in the FIR are that the prosecutrix, who is 31 years of age, is permanent resident of Mata Gate Kaithal. She was doing job at Mohali and during that time, in the year 2016, she came in contact with Amandeep Singh i.e. the petitioner. Both of them were working at the same place. Aman Rana @ Amandeep sent her a friend request on Facebook and thereafter, their relationship kept on increasing. It is alleged that on 08.10.2017, Aman Rana @ Amandeep solemnized marriage with the prosecutrix at Shiv Mandir, Saketri. Thereafter, one day, she rang up Aman Rana @ Amandeep and one lady picked up the phone and informed that she was wife of Aman Rana @ Amandeep. The prosecutrix was never informed

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by Aman Rana @ Amandeep that he was already married. It was alleged on 9th March, 2020, Aman Rana @ Amandeep came to meet her at Jujhar Nagar and therefore, on the point of knife, he committed rape with her against her consent. Thereafter, he kept on making physical relations with the prosecutrix by coercion. The FIR was lodged to take the legal action against the accused. On the commencement of the investigation, the accused petitioner was arrested on 16th August, 2020. Petitioner approached the Court of learned Judge, Special Court, SAS Nagar, Mohali for grant of bail, who after hearing counsel for the parties, declined the same vide order dated 29th September, 2020. Aggrieved by the same, the petitioner has approached this Court for grant of regular bail.

Learned counsel for the petitioner has contended that the petitioner and the prosecutrix both are major and the petitioner has been falsely implicated in this case. He submits that the prosecutrix filed a complaint dated 19th July, 2020 to the Station House Officer, Police Station, Sohana wherein, she alleged that the assurance was given by the petitioner to marry her. She alleged that she would divorce her husband and the petitioner promised her that he would divorce his wife. He has submitted that the prosecutrix herself has admitted that she got married with the petitioner and hence, the allegations regarding Section 376 IPC would not be legally sustainable. He has further submitted that during investigation, the prosecutrix was asked by the investigating agency for the medical test, however, she refused for the same. To buttress his arguments, he has submitted that the prosecutrix and her mother have been examined by the trial Court as PW-1 and PW-2 respectively. The copies of the testimonies have been placed on record. He submits that both these material witnesses have not supported the case of the prosecution and thus, they have been

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declared hostile. Learned counsel submits that as the material witnesses themselves have not supported the case of the prosecution, the false implication of the petitioner is writ large and hence, his further incarceration is totally unwarranted.

Learned counsel for the complainant affirms the submissions made by counsel for the petitioner. He submits that the prosecutrix and her mother have not supported the case of the prosecution.

Learned State counsel has submitted that there are specific allegations against the petitioner. However, she candidly acknowledges that both the prosecutrix and her mother have not supported the case of the prosecution.

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

Petitioner and the prosecutrix both are major. From the allegations made in the FIR, the case of the prosecutrix is that petitioner married her. Both the prosecutrix as well as her mother have been examined by the trial Court as PW-1 and PW-2 respectively and they have not supported the case of the prosecution. A reading of the testimony of the prosecutrix would show that she had deposed that the accused Aman Rana @ Amandeep had not committed anything wrong with her. Similarly, her mother who has been examined as PW-2 has also deposed that her daughter i.e. the prosecutrix wanted to marry Aman Rana @ Amandeep but he married with someone else. Hence the altercation took place between both of them. She went to the Police Station Sohana where police took her signatures on some blank papers.

This Court would refrain from going into the merits of the case. The veracity of the allegations would be assessed by the learned trial Court

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on the appreciation of the evidences to be led before it. 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. However, confining to the prayer made for the grant of bail, this Court is convinced that the 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.

In view of the fact that the main case has been decided, CRM-28375-2021 stands disposed of.

(RAJESH BHARDWAJ)
JUDGE

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m. sharma

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

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