

In the High Court for the States of Punjab and Haryana at
Chandigarh

CRM-M-34896-2022

Date of Decision: August 31, 2022

Baljeet Singh

... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Abhaysher Singh, Advocate,
for the petitioner.

Mr. Harpreet Singh, Addl. A.G., Punjab

Vivek Puri, J.

Short reply by way of affidavit of Shubeg Singh,
PPS, Deputy Superintendent of Police, Sub Division, Fazilka
is taken on record.

The petitioner is seeking anticipatory bail in the
case bearing FIR No. 41, dated 19.03.2022, under Sections
376, 34 of the Indian Penal Code (for short 'IPC'), registered
at Police Station Sadar Fazilka, District Fazilka.

Briefly, the FIR has been registered on the
allegations that the prosecutrix is aged about 22 years and
the petitioner had been residing in the neighbourhood in a
rented accommodation. They got acquainted with each other
and became on friendly terms. The petitioner had promised
to solemnize the marriage with the prosecutrix. The

petitioner had taken the prosecutrix to his Village Rana and on 03.11.2011 by taking the prosecutrix into confidence at about 10 p.m. made physical relations with her. They resided at Village Rana for 2 days and thereafter returned back to Ludhiana. The prosecutrix became pregnant and she informed the petitioner. On 09.12.2021, she visited the house of the petitioner at Village Rana. The mother of the petitioner asked the prosecutrix to develop physical relations with her other son, in the event, she wants to become daughter-in-law of the family. Jasvir Singh, the brother of the petitioner has also made physical relations with her against her consent. The mother of the petitioner administered something to her by mixing the same in the food which resulted in termination of pregnancy. The petitioner has refused to solemnize the marriage.

Learned counsel for the petitioner contends that the false and vague allegations have been levelled against the petitioner. It sounds improbable that the mother of the petitioner would have asked the prosecutrix to enter into physical relationship with other son. Moreover, it was a case of consensual relationship and no case under Section 376 IPC is made out. Even the dispute has been amicably settled between the parties and the prosecutrix has submitted the affidavit (Annexures P-2 and P-3) in this regard.

The learned State counsel has opposed the bail application on the score that the petitioner had committed sexual intercourse upon the prosecutrix on the false pretext of marriage. Moreover, Jasvir Singh, the brother of the petitioner, has been found to be innocent. The fact of compromise has been verified from the prosecutrix and she has informed that no such settlement/compromise has been effected.

It is significant to note that there is categoric and specific allegation levelled against the petitioner to the effect that he had entered into physical relationship with the prosecutrix on the false pretext of the marriage. There is also an allegation to the effect that the prosecutrix conceived and suffered miscarriage at a subsequent stage. Although, there are allegations levelled against the brother of the petitioner, but during the course of investigation, he has been found to be innocent. It will be too early to conclude that it is a case of consensual relationship, particularly because there is categoric and specific allegation that the petitioner has developed physical relationship with the prosecutrix. It will be too early to conclude that there was genuine intention on the part of the petitioner to solemnize the marriage with the prosecutrix at the time when he developed physical relations with her. It appears that the same was a clever ploy on the part of the petitioner to develop physical relationship.

Merely because they were on friendly terms, it cannot be termed to be a circumstance which may permit or provide any leverage to the petitioner to sexually exploit the prosecutrix. The affidavit of the prosecutrix sought to be relied upon cannot be termed to be of much significance at this stage, particularly because the offence under Section 376 IPC is non compoundable. Moreover, in the reply, it has been stated that the prosecutrix is disputing the fact of any compromise having been effected. It appears that the petitioner is making an attempt to win over the witnesses which is also a significant factor to disentitle the petitioner from extra ordinary relief of pre-arrest bail.

Keeping in view of gravity of allegations and circumstances emerging in the case, no extra ordinary circumstances are made out to grant pre-arrest bail to the petitioner.

Present petition is accordingly, dismissed.

August 31, 2022
vkd

(Vivek Puri)
Judge

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