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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-35600-2022

Date of Decision: September 28, 2022

Kashmir Sangwan @ Keshav

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Ravinder Phogat, Advocate
for the petitioner.
Mr.B.S.Virk, DAG, Haryana.
Respondent No.2-complainant in person with
Mr.Bhupander Ghangas, Advocate.

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RAJESH BHARDWAJ, J.(ORAL)

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in a case FIR No.137, dated 13.07.2022, under Sections 376(2)(n), 506 IPC (Sections 377, 406, 323 IPC added lateron), registered at Police Station Women, Cell (West), Gurugram, District Gurugram.

Adumbrated facts of the case are that the present FIR was lodged by the prosecutrix primarily on the allegations that she was in consensual relationship with the petitioner. Thereafter the petitioner promised her to marry. She believed the same. On assurance of the marriage, both of them entered into consensual physical relationship. However, having entered into the physical relationship, the petitioner later on retracted from the same and refused to marry her. Finding herself deceived, the prosecutrix had no other option than to resort to take legal action against the accused. On account of the same, the complaint was

lodged and FIR was registered. The investigation commenced and the petitioner was arrested on 13.07.2022. He approached the Court of learned Additional Sessions Judge (Fast Track Court), Gurugram, for grant of bail, however, after hearing both the parties, the same was declined vide its order dated 01.08.2022. Aggrieved by the same, the petitioner has approached this Court.

Counsel for the petitioner has submitted that both the petitioner and the prosecutrix are of the age of majority and they were in consensual relationship for the last about seven years. He submits that due to some misunderstanding, the prosecutrix lodged the present FIR against the petitioner. He submits that from perusal of the allegations in the FIR, it is apparent that the petitioner refused to honour the promise of marriage given to the prosecutrix, however, the same is factually incorrect. Engagement of the prosecutrix and the petitioner has already taken place in June 2021 and the petitioner was ready to marry the prosecutrix, however, on account of some misunderstanding the FIR was lodged and however, marriage could not be performed till date as the petitioner is behind bars. He has relied upon **Pramod Suryabhan Pawar vs The State of Maharashtra and others** (2019) 9 SCC 608 and has submitted that as per the law settled, no offence under Section 376 IPC is made out. He further submits that even otherwise both the petitioner and the prosecutrix have no malice against each other and both of them and as well as their families have decided to perform their marriage. He has submitted that investigation is complete and hence further incarceration of the petitioner is not warranted.

The prosecutrix-complainant is also present in Court alongwith

her counsel. She has affirmed the submissions made by counsel for the

petitioner and has submitted that they have resolved their differences amicably and they are ready to marry each other.

On the other hand, learned State counsel has submitted that investigation in this case is already complete and the challan is also presented. He has submitted that petitioner has no criminal antecedents as per information received as he has never been involved in any other case.

Heard.

Evidently, the present FIR has been lodged by the prosecutrix on the allegations that the petitioner did not honour the promise made to her before entering into the physical relationship. However, both the petitioner and the prosecutrix are of the age of majority and they have decided to marry each other. On interaction with the prosecutrix, the Court has found that the prosecutrix has no malice against the petitioner as he is ready to marry her. There is nothing on record to show that the petitioner has criminal antecedents. As submitted by learned State counsel, the investigation is already complete and the challan under Section 173 Cr.P.C. already stands presented. Allegations and counter-allegations would be finally assessed by the trial Court on appreciation of the evidence to be led by the parties.

In the overall facts and circumstances of the case, I am of the considered opinion that no useful purpose would be served in keeping the petitioner behind bars. Thus, the learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner.

Accordingly, the present petition is allowed and petitioner is ordered to be released on bail to the satisfaction of the concerned trial

Nothing stated hereinabove shall be treated as an expression of opinion on the merits of the case.

September 28, 2022
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(RAJESH BHARDWAJ)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |