

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

**CRM-M-35780-2022
Date of Decision: 22.08.2022**

NITIN KUMAR

... PETITIONER

VS.

STATE OF HARYANA

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Balraj Gujjar, Advocate,
for the petitioner.

Mr. Zorawar Singh Chauhan, Deputy Advocate General, Haryana.

VIVEK PURI, J.(ORAL)

The petitioner is seeking regular bail in the case bearing FIR No.245 dated 25.04.2022 under Section 376 (2) (n) and 506 IPC registered at Police Station Palla, District Faridabad.

Custody certificate has been placed on record.

Briefly, the allegations in the FIR are to the effect that the petitioner had developed physical relations with the prosecutrix, who is aged about 20 years, on the false pretext of marriage.

Learned counsel for the petitioner contends that the prosecutrix is more than 20 years and it is a case of consensual relationship. Even at the earlier instance, the prosecutrix had submitted complaint to the police authorities. However, vide statement (Annexure P-1), she has chosen to withdraw the complaint. Furthermore, the petitioner could not solemnize marriage with the prosecutrix as she was having subsisting marriage. The investigation of the case is complete and challan has already been presented.

The bail application has been resisted by the learned State counsel on the score that there is categoric statement of the prosecutrix indicating that physical relations were developed on the false pretext of marriage and furthermore, during the course of trial, the statement of the prosecutrix is yet to be recorded.

Be that as it may, it has not been disputed that the prosecutrix is having subsisting marriage. Even in the statement contained at Annexure P-1, it has been mentioned that the prosecutrix would solemnize marriage with the petitioner after taking divorce from her first husband. As the earlier marriage of the prosecutrix still subsists, the petitioner could not solemnize marriage with her. Consequently, it will be a debatable and moot point during the course of trial as to whether the sexual intercourse was performed on the false pretext of marriage or it was a case of consensual relationship. Apparently, there is nothing to suggest that the prosecutrix was put under fear or misconception while developing physical relationship. Investigation of the case is complete and challan has been presented. The custody certificate indicates that the petitioner is in custody for a period of 03 months and 25 days and not involved in any other case. The conclusion of trial is likely to take some time and no fruitful purpose will be served by detaining the petitioner behind the bars.

In such circumstances, sufficient grounds are made out to extend the concession of bail to the petitioner. Accordingly, without making any observation on the merits of the case, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Illaq Magistrate/Duty Magistrate.

22.08.2022
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No