

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

224

(Through Video Conferencing)

CRM-M-49964-2021

Date of decision: 31.01.2022

Pankaj Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Manuj Nagrath, Advocate
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab
for the respondent-State.

MANJARI NEHRU KAUL, J. (ORAL)

This is the first petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.0122 dated 30.06.2021 lodged under Section 376 of the IPC registered at Police Station City Malout, District Muktsar Sahib.

Learned counsel for the petitioner while inviting the attention of this Court to the FIR (Annexure P-1) submits that a perusal of the same leaves no manner of doubt that the relationship between the petitioner and the prosecutrix was consensual in nature. Learned counsel submits that no assurance of any marriage was ever given to the prosecutrix as had been alleged in the FIR in question. However, it was on account of some monetary dispute, the prosecutrix planted a false and fabricated case upon the petitioner. He further submits that the relationship between the petitioner and the prosecutrix lasted for as long as 04 years and the FIR in question was registered after 04 months

from the date when prosecutrix was allegedly raped last by the petitioner on 21.02.2021. Learned counsel further submits that subsequent to the registration of the FIR in question, the prosecutrix vide Annexure P-4 had herself stated that it was on account of some misunderstanding between the parties that she got the FIR in question registered. Learned counsel submits that the petitioner has been in custody since 01.07.2021 and there is no likelihood of the trial concluding in the near future as the prosecution evidence has not yet commenced.

Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from ASI Angrej Singh, submits that the prosecutrix had reiterated the allegations levelled against the petitioner while getting her statement recorded under Section 164 Cr.P.C. Learned State counsel submits that the next date fixed before the trial Court is 15.02.2022 when some prosecution witnesses are likely to be examined.

I have heard learned counsel for the parties and perused the material placed on record.

Prima facie it does not appear to be a case of forceful sexual assault. A perusal of the FIR indeed reveals that the prosecutrix at the time of commission of the alleged crime was admittedly an adult and a consenting party. The submissions made by learned counsel for the petitioner that no promise of marriage had been ever given to the prosecutrix would be a matter to be appreciated during trial.

In the circumstances, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty

Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

31.01.2022

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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