

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

215

(Through Video Conferencing)

CRM-M-50760-2021

Date of decision: 04.02.2022

Saurav Kaila

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. P.S. Ahluwalia, 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.45 dated 19.08.2021 lodged under Sections 376(2)(N) and 417 IPC registered at Police Station Dhar Kalan, District Pathankot.

Learned counsel for the petitioner while drawing the attention of this Court to the contents of the FIR in question submits that it is abundantly clear that the petitioner and the prosecutrix, aged 24 years, had been in a live-in-relationship as they had not only rented a premises from 31.12.2019 till 08.06.2020 but had also travelled together to different places from 06.08.2021 to 13.08.2021 and stayed in hotels. In support, learned counsel has also drawn the attention of this Court to Inquiry Report(Annexure P-3) wherein the statement of Ram Parvesh Jha, caretaker of the rented premises where both the

petitioner and the prosecutrix lived together on rent stands recorded, which duly corroborates the factum of both the petitioner and the prosecutrix living together. Learned counsel further submits that it was apparently a consensual relationship between two mature adults and there was no question of the petitioner forcibly establishing physical relations with her on the pretext of marriage. Later, however, due to the petitioner and the prosecutrix belonging to same 'Gotra', their live-in-relationship could not be formalised into marriage, as a result, the prosecutrix planted a fabricated case against the petitioner. Learned counsel submits that the petitioner has been in custody since 25.08.2021 and there is no likelihood of the trial concluding in the near future as the prosecutrix has not been appearing before the trial Court for getting her evidence recorded and is intentionally trying to delay the trial.

Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from ASI Arun Kumar, submits that though charges stand framed, however, no prosecution witness out of 33 prosecution witnesses cited, has been examined till date. He has, however, not been able to controvert the submissions made by counsel opposite that the prosecutrix had not been putting in an appearance to get her evidence recorded before the trial Court.

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

Prima facie it appears to be a case of consensual relationship between the parties. The allegations levelled against the

petitioner of establishing physical relations with the prosecutrix on false pretext of marriage would be a matter to be appreciated at the time of trial. Since, the investigation is complete, charges stand framed and the petitioner is not involved in any other criminal case, his further incarceration would not serve any useful purpose as the trial will take considerable time to conclude. 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.

04.02.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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