

103+217

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

CRM-M No.46796 of 2022 (O&M)

Date of Decision: 29.11.2022

Sarvesh Kumar

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sukhcharan Singh Gill, Advocate
for the petitioner.

Mr. R. K. Arya, DAG, Haryana.

MANJARI NEHRU KAUL J. (Oral)

CRM No.42654 of 2022

Prayer in this application is for placing on record the order dated 25.08.2022 passed by the Learned ASJ, Gurugram as Annexure A-8.

For the reasons recorded in the application, the instant application is allowed and order dated 25.08.2022 passed by the Learned ASJ, Gurugram is taken on record as Annexure A-8 subject to just exceptions.

CRM-M No.46796 of 2022

This is the third petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.154, dated 22.06.2021, lodged under Sections 323, 376(2)(n) of the Indian Penal Code, 1860, registered at Police Station DLF Phase III, District Gurugram.

Mr. Pranshull Dhull, Advocate has appeared and filed his power of attorney on behalf of the complainant today in the Court and the same is taken on record.

Learned counsel appearing for the petitioner submits that a perusal of the allegations levelled in the FIR in question, which has been annexed as Annexure P-1, makes it abundantly clear that the relationship if any of the prosecutrix, who admittedly is about 26 years of age with the petitioner, had been one of consent between two mature adults. However, later on, on account of their relations turning sour, the prosecutrix planted the instant case on the petitioner. He submits that the petitioner has now been in custody for almost 1½ years, having been arrested on 11.07.2021 and there is no likelihood of the trial concluding in the near future. It has also been submitted that during the pendency of the trial, the parties have ironed out their differences and they would be solemnizing their marriage in the near future.

Per contra, learned State counsel on instructions, has submitted that no doubt the prosecutrix was an adult, however, she had levelled specific allegations against the petitioner of establishing physical relations with her on the pretext of marriage. He has further submitted that while stepping into the witness box, the prosecutrix had reiterated the allegations levelled against the petitioner.

Learned counsel appearing for the complainant has not disputed the submissions made by the counsel opposite that during the pendency of the trial, the parties have ironed out their differences and that they would be solemnizing their marriage.

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

Prima facie, a perusal of the contents of the FIR in question do hint towards the parties being in a consensual relationship. This Court would however refrain from commenting upon the compromise so arrived at between the parties during the pendency of the trial on which the learned counsel for the petitioner has placed reliance and the factum of which has been admitted by the learned counsel for the complainant.

Since the petitioner has been in custody since 11.07.2021, and the prosecutrix, who is the sole maternal witness stands examined, this Court, in the facts and circumstances as enumerated hereinabove, deems it appropriate to extend the concession of bail to him. Accordingly, 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.

(MANJARI NEHRU KAUL)
JUDGE

29.11.2022
rittu

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