

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

223

(Through Video Conferencing)

CRM-M-54531-2021

Date of decision: 10.01.2022

Vijay Kumar

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ravi Gakhar, Advocate
for the petitioner.

Mr. Rehat Bir Singh Mann, DAG, Punjab.

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.215 dated 12.10.2021 lodged under Section 376 of the Indian Penal Code, 1860 registered at Police Station Tibba, District Ludhiana.

Learned counsel for the petitioner submits that it was essentially a consensual relationship between the parties which is evident from a perusal of the allegations levelled in the FIR in question. Learned counsel has invited the attention of this Court to Annexure p-2 which is a duly sworn in affidavit of the prosecutrix wherein she deposed that it was on account of some misunderstandings that she had got the FIR in question registered. Learned counsel submits that in the said affidavit, the prosecutrix had also stated that the misunderstandings between them had been removed and a compromise effected between the parties as a result of which the petitioner would

solemnize marriage with her as per rites and rituals. Learned counsel submits that in the wake of the contents of the affidavit it was thus evident that the FIR had been registered on account of some misunderstandings between the parties which now stood removed. Learned counsel submits that since the petitioner has been in custody since 15.10.2021, his further incarceration would serve no useful purpose.

Per contra, learned State counsel, on instructions from ASI Kulwinder Singh, has vehemently opposed the prayer made by the counsel opposite. Learned State counsel has submitted that enough incriminating material had been collected by the investigating agency against the petitioner of having lured the prosecutrix into a physical relationship with him after putting vermilion in her hair and thereafter having assured her that they were duly married. Learned State counsel submits that thereafter the petitioner under the garb of false assurance, continued to violate the person of the prosecutrix. Learned State counsel has on instructions further submitted that he had no instructions qua the authenticity of the affidavit so placed on record by learned counsel for the petitioner. He submits that in her statement recorded under Section 164 Cr.P.C., which was subsequent to the date of the affidavit (Annexure P-2) i.e. on 16.12.2021, the prosecutrix had reiterated all the allegations levelled in the FIR in question against the petitioner of having lured her into physical relation after performing a sham marriage with her. He has further submitted that since the charges have not yet been framed, the petitioner be not extended the concession of bail as there was every likelihood that he could tamper with material

evidence and also try to influence the witnesses to depose in his favour.

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

Prima facie there are serious and specific allegations levelled against the petitioner of having committed rape upon the prosecutrix after performing a sham marriage. In the circumstances, this Court does not deem it appropriate to extend the concession of bail to the petitioner.

Dismissed.

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.

10.01.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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