

2023:PHHC:103958

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

CRM-M-7700-2023

Date of Decision: 10.08.2023

SAHIL @ TINKU

... PETITIONER

VS.

STATE OF PUNJAB

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Gursimran Singh Bhatia, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, DAG, Punjab.

VIVEK PURI, J.(ORAL)

1. The petitioner is seeking regular bail in the case bearing FIR No. 41 dated 10.09.2022 under Section 376 IPC registered at Women Police Station, District Amritsar.
2. Custody certificate has been placed on record.
3. Learned counsel for the petitioner contends that the prosecutrix is aged about 25 years and she had voluntarily solemnized marriage with the petitioner. Both of them cohabited together for a period of 02 years and even a child has been born from the wedlock. At the earlier instance, the petitioner and the prosecutrix were in relationship and their marriage was a simple affair. Even, the petitioner does not dispute the paternity of the child born to the prosecutrix. Furthermore, the prosecutrix had been attending family functions and marriage of the relatives being the wife of the petitioner. The statement of the prosecutrix during the course of trial has been recorded and the petitioner is in custody for a period of 09 months and 27 days and not involved in any other case. He further submits that the present FIR has been falsely registered on account of marital dispute.

4. Learned State counsel has opposed the bail application on the score that there is categorical statement of the prosecutrix to the effect that she was forcibly confined and subjected to repeated forcible sexual intercourse. Even the DNA of the child has matched with the petitioner.

5. It is significant to note that the petitioner is not disputing the fact of paternity of the child. As per his version, the FIR is a result of marital dispute between the parties. The prosecutrix has been attending the family functions as wife of the petitioner. The statement of the prosecutrix has been recorded in the trial Court and as such, it cannot be said that the petitioner, in any manner, can win over or influence her. It has not been disputed that 16 witnesses still remain to be examined. The controversy as to whether the relationship between the petitioner and the prosecutrix was consensual or not will be a debatable and moot point during the course of trial. The petitioner is in custody for a period of 09 months and 27 days and he is not involved in any other case.

6. 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/Duty Magistrate.

10.08.2023
smriti

(VIVEK PURI)
JUDGE

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