

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 101

Criminal Miscellaneous No.M-15277 of 2023

Date of Decision: March 27, 2023

Rahul

..... PETITIONER(S)

VERSUS

State of Haryana

..... RESPONDENT(S)

...

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

...

PRESENT: - Mr. Abhimanyu Singh, Advocate, for the petitioner.

Ms. Mahima Yashpal, Deputy Advocate General,
Haryana, assisted by Mr. Parshant Singh Chauhan,
Advocate, for the complainant.

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Tribhuvan Dahiya, J (Oral)

This is a petition for grant of pre-arrest bail to the petitioner in case FIR No.09 dated 07.02.2023 under Sections 376(2)(n) and 506 IPC registered at Police Station Jatusana, District Rewari.

2. The allegations against the petitioner are that he committed rape upon the prosecutrix/complainant on the false pretext of getting married to her.

3. Learned counsel for the petitioner contends that it is a case of false implication as FIR in question was lodged after about five months of the first incident. The complainant willingly accompanied

the petitioner to a hotel on 12.09.2022, as also on 02.10.2022, where the two had physical relations.

4. Learned State counsel assisted by learned counsel for the complainant contends that it is only on the petitioner's promise of solemnizing marriage with complainant that she agreed to meet the petitioner on the said dates, and even prior thereto. Consent to physical relations was obtained on the false pretext, as the petitioner later refused to marry. Therefore, cannot be termed as her consent so as to absolve the petitioner of the alleged offences. Even otherwise, petitioner's conduct has not been forth-right and *bona fide*, as despite the directions of the Sessions Court to disclose his address and place of posting, he failed to do so. The fact is duly recorded in the order passed by the Sessions Court. It is also submitted that the first bail application filed by the petitioner before the Sessions Court was withdrawn by him since the complainant agreed to settle the issue on an assurance by the petitioner's parents that they would persuade him to solemnize the marriage.

5. The submissions made by learned counsel for the parties have been considered as also the facts of the case.

6. Mere delay in lodging the FIR is not a ground to disbelieve the complainant. The facts narrated in the FIR speak for themselves. The complainant was made to meet the petitioner, and have physical relations with him on the false promise of marriage extended to her. Therefore, relations between the two cannot be termed

consensual, and the offences alleged are *prima facie* attracted. Besides, the petitioner’s conduct has not been *bona fide*, as he failed to furnish his address and other particulars despite specific order by the Sessions Court. The offences are serious and the allegations are specific, requiring custodial interrogation of the petitioner to establish the facts. He, therefore, cannot be granted the concession of pre-arrest bail.

7. Dismissed.

(Tribhuvan Dahiya)
Judge

March 27, 2023
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No