

Neutral Citation No. 2023:PHHC: 154640

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND  
HARYANA AT CHANDIGARH**

247

**CRM-M-22145-2023 (O&M)  
Date of decision: 21.12.2023****Gurvinder Singh****...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Bipan Ghai, Sr. Advocate with  
Mr. Nikhil Ghai, Advocate  
for the petitioner.

Ms. Himani Arora, AAG, Punjab.

Mr. Naveen Sharma, Advocate  
for the complainant.

**MANISHA BATRA, J. (Oral)**

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 316 dated 10.12.2022, registered under Sections 377, 354, 313, 323 and 494 of the IPC (Sections 376 and 201 of the IPC added later on) at Police Station Patran, District Patiala.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of the statement recorded by complainant 'L' (*name withheld*) on 10.12.2022 alleging therein that she had developed friendship with the petitioner in the

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year 2019, who, by making promise to her, took her to a rented accommodation in Mohali on 08.12.2021 and forcibly developed physical relation with her. He performed *Anand Karaj* with her in a Gurdwara in village Moonak on 17.03.2022. Even after marriage, she was not taken by the petitioner to his house and was kept in the same rented accommodation. Subsequently, she came to know that the petitioner was already married and was even having a daughter. On being confronted with this fact, the petitioner assured her that he would get divorce from his first wife. However, thereafter he stopped coming to her and contacting her. She had filed a complaint to DGP, Punjab, however, an compromise had been effected between them at panchayati level at that time. After sometime, she had become pregnant and on coming to know about this fact, the petitioner tried to get her pregnancy aborted. She was physically assaulted and the petitioner and his family members administered some medicine, due to which, she suffered miscarriage. The petitioner even tried to outrage the modesty of her sister, who had come to meet her and on resistance by the complainant, she and her sister were extended severe beatings by the petitioner.

After registration of the FIR, investigation proceedings were initiated. The petitioner was arrested on 10.12.2022. After completion of necessary investigation and usual formalities, challan was presented in Court and presently, the petitioner is facing trial for commission of aforementioned offences. He had moved an application for grant of regular bail before the trial Court but the same was dismissed, vide order dated 05.04.2023.

3. Learned counsel for the petitioner has argued that it was a case of consensual relationship having turned sour and not of rape. The complainant

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was in relationship with the petitioner since the year 2019 and now she wanted to extract money from the petitioner. Compromises had been effected between them and the petitioner had even agreed to transfer half share of his house at Patran in her favour and also to get their marriage registered. The complainant herself had got her pregnancy aborted by taking some medicines and it was not a case of miscarriage. The ingredients for commission of offence of rape were not attracted in this case. The petitioner is in custody since 10.12.2022. The trial is likely to take some time. No useful purpose would be served by keeping him in custody anymore. Hence, it is prayed that the present petition deserves to be allowed.

4. *Per contra*, learned State counsel has contested the plea taken by the petitioner in terms of the status report. He has argued that there was a history of violence upon the complainant by the petitioner in the past. She had suffered injuries at his hands. The petitioner was previously married to one Amanpreet Kaur. He had cheated his legally wedded wife and had performed marriage with the complainant by concealing the factum of his first marriage. He had subjected the complainant to sexual relations on the pretext of performing marriage with her and, therefore, the ingredients for commission of offence punishable under Section 376 IPC were attracted. With these broad submissions, he has urged that the present petition is liable to be dismissed.

5. I have heard learned counsel for the parties and have also gone through the material placed on record very carefully.

6. The petitioner, during the subsistence of his first marriage with said Amanpreet Kaur, is alleged to have allured the complainant to perform

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marriage with her and not only this, he is even alleged to have performed marriage with her by concealing the factum of his first marriage. There are also serious allegations against him that he had caused miscarriage of the child in the womb of the complainant. The complainant is yet to be examined. The allegations against the petitioner are quite serious in nature. There is nothing on record to show that there would be any undue delay in conclusion of trial. Keeping in view the gravity of offences alleged to have been committed by the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, this Court is of the considered view that the petitioner does not deserve to be given concession of regular bail. Hence, the petition stands dismissed.

21.12.2023

*Waseem Ansari*

(MANISHA BATRA)

JUDGE

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|----------------------------------|---------------|
| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether reportable</i>        | <i>Yes/No</i> |