

2023:PHHC:141878

210 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-24198-2023 (O&M)

Date of Decision: 07.11.2023

SABBIR

... PETITIONER

VS.

STATE OF HARYANA

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr.R.S.Randhawa, Advocate, for the petitioner.
Mr. Ranvir Singh Arya, Additional Advocate General, Haryana.

VIVEK PURI, J.(ORAL)

1. The petitioner is seeking regular bail in the case bearing FIR No. 0254 dated 27.11.2022 under Sections 323/376(2)(N)/406/495/506/201/34 IPC registered at Police Station Women NIT, Faridabad, District Faridabad.

2. Custody certificate has been placed on record.

3. Learned counsel for the petitioner contends that the FIR was registered on the allegations that the petitioner had deceitfully solemnized *nikah* with the prosecutrix and sexually abused her. The prosecutrix is a mature lady aged about 30 years at the time of occurrence. Initially, the FIR was registered under Sections 323/406/495/498-A/506 IPC. Subsequently, the offence under Section 495 IPC was deleted and offence under Section 376(2)(n) has been added at the instance of the police officials who were demanding illegal gratification from the petitioner. It has been further submitted that the statement of the victim during the course of trial has been recorded. The victim has specifically and categorically stated that the relationship between her and petitioner was with the mutual consent and free will. She has also testified to the effect that the petitioner never performed *nikah* with her and had not prepared video of the same. The petitioner never quarreled with her and never kept her as his wife. It has also been deposed by

the prosecutrix that the petitioner neither threatened to kill her nor

misappropriated her gold articles. The petitioner is in custody for a period of 09 months and 27 days. Although, he was involved in three other cases as mentioned in the custody certificate but has been acquitted in all the three cases.

4. Learned State counsel, on instructions from ASI Anju, submits that out of 09, only 01 witness has been examined till date.

5. It is significant to note that during the course of trial, the statement of the prosecutrix has been recorded. The prosecutrix has disclosed her age to be 33 years and has testified to the effect that she was acquainted with the petitioner and they had developed physical relationship with mutual consent and free will. She has also denied the allegations with regard to nikah having been performed by the petitioner with her. She has also deposed to the effect that the petitioner neither prepared any video of the same nor quarreled with her and kept her as his wife. He neither threatened to kill her, nor misappropriated the gold articles. Still 08 witnesses remained to be examined. The petitioner is in custody for a period of 09 months and 27 days and is stated to have been acquitted in the other criminal cases registered against him. The conclusion of trial is likely to take some time and no fruitful purpose will be served by detaining the petitioner in further custody.

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.

07.11.2023

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(VIVEK PURI)

JUDGE

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