

2023:PHHC:107349

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

CRM-M-28228-2023

Date of Decision: 18.08.2023

BHUSHAN

... PETITIONER

VS.

STATE OF HARYANA

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr.Robin Singh Hooda, Advocate, for the petitioner.
Mr. Surinder Kumar Dagar, DAG, Haryana.
Mr. Satyaveer Singh, Advocate, for the complainant.

VIVEK PURI, J.(ORAL)

1. The petitioner is seeking regular bail in the case bearing FIR No.0038 dated 01.04.2022 under Sections 34, 377, 406, 498-A, 506 IPC and later on added Sections 376 (2) (n), 493, 494, 495, 420, 109 IPC registered at Women Police Station Rohtak Sadar, District Rohtak.

2. Reply by way of affidavit of Virender Singh, Deputy Superintendent of Police, Rohtak on behalf of the respondent-State and custody certificate of the petitioner have been placed on record.

3. Learned counsel for the petitioner contends that the allegations against the petitioner are to the effect that during subsistence of earlier marriage, he has solemnized marriage with the prosecutrix and had also taken a sum of Rs.45/50 lac from her. He further contends that in-fact, the petitioner had never solemnized marriage prior to his marriage with the prosecutrix. The petitioner was live-in-relationship with another lady. Moreover, the marriage of the prosecutrix was solemnized in dharamshala and it was a simple affair. The allegations with regard to extracting a sum of Rs.45/50 lac are without any substance and not supported with any document in this regard. Furthermore, the allegations, at the most, make out

the offence under Section 495 IPC, which is bailable. The petitioner is in custody for a period of 01 year, 03 months and 09 days.

4. Learned State counsel and the learned counsel for the complainant have opposed the bail application on the score that the petitioner had deceitfully solemnized marriage with the prosecutrix by concealing the fact of earlier marriage pertaining to which, there is a marriage certificate. Furthermore, the prosecutrix is yet to be examined during the course of trial.

5. On a query, learned State counsel submits that the charge was framed as back as on 21.12.2022. It implies that reasonable opportunities have already been granted for examination of the prosecutrix. The petitioner is in custody for a period of 01 year, 03 months and 09 days. It will be debatable and moot point as to whether the offence under Sections 376 and 495 IPC is made out in the instant case. The offence under Section 495 is bailable. Till date, no witness has been examined. 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.

18.08.2023
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(VIVEK PURI)
JUDGE

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