

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-28370-2023 (O&M)

Date of Decision : 13.12.2023

LOVEPREET SINGH BRAR

.... Petitioner

VERSUS

STATE OF PUNJAB

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sandeep Sharma, Advocate for the petitioner.

Mr. M.S. Tiwana, AAG Punjab.

Mr. Sartej Singh Narula, Advocate for the complainant.

ALKA SARIN, J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.22 dated 24.01.2023 under Sections 376, 420, 406 of the Indian Penal Code, 1860 registered at Police Station City South Moga, District Moga.

2. The FIR in the present case (running into 15 pages) has strangely been registered on the statement of a lawyer/legal consultant wherein he alleged that the victim is a permanent resident of Italy and her first marriage was solemnized in the year 2009. After her marriage, she went to Italy with her husband and out of the wedlock one son was born. However, due to certain differences, the victim came back to India in the year 2016. On coming back to India the victim met the present petitioner. It is further the allegation that the petitioner herein promised her that he will

marry her on the condition that she would settle abroad in any country and also introduced her to his parents. It is further alleged that the victim was later engaged to the present petitioner and she went to Germany in the year 2017 and arranged a business Visa for the petitioner as also incurred all the expenses from her own pocket. On the expiry of the Visa, when she asked the petitioner to leave the country, he asked her to make alternate arrangements for him and refused to come back and started living with her in an illegal manner. He also developed physical relations with her. The parents of the petitioner also demanded money from her for raising construction of the house. She sent them money through Western Union. It is further the allegation that the petitioner remained in Germany for 2 years in an illegal manner. When he was detained by the Immigration Authorities in Germany, the victim got him released and thereafter she moved to Italy and the petitioner moved to Portugal. It is further the allegation that the victim came to attend the marriage of the brother of the petitioner in the year 2020 as the petitioner could not attend the marriage on account of non-receipt of the Visa for India. She was introduced as a daughter-in-law to everyone and she went back to Portugal in February 2021 and lived there with the petitioner till October 2021. Thereafter, she went from Portugal to Italy and the petitioner started pressurizing the victim to make arrangements to reside at Germany instead of Portugal. They shifted to Germany in November 2022 and there the petitioner, without informing her, went somewhere and took away all other belongings including documents of him residing with the victim. It is further the allegation that when she contacted the parents of the

petitioner, they stated that since the petitioner had got Permanent Residence of Germany, the marriage will not be solemnized now.

3. Learned counsel for the petitioner would contend that the allegations in the present FIR are that the petitioner herein cheated the victim on the pretext of marriage. Learned counsel would further contend that the petitioner has been in custody for a period of 8 months and 8 days and has absolutely clean antecedents and that there is no other case pending against the petitioner. It is further the contention of the learned counsel for the petitioner that the statement of the victim was recorded on 04.09.2023 and thereafter she was partly cross-examined. Subsequently, she was cross-examined on 03.10.2023 and her remaining cross-examination was deferred as Court time as over. In the order dated 09.10.2023 it has been noticed that the cross-examination was deferred on the request of the defence counsel for want of original passport. Thereafter, despite the case being adjourned numerous times, the victim is not coming forward as she has left for Italy.

4. Learned counsel for the State has filed the custody certificate and as per the custody certificate the petitioner has been in custody for a period of 8 months and 8 days. Learned counsel for the State is not in a position to dispute the factual averments to the extent that the victim is not appearing despite being bound down.

5. Learned counsel for the complainant has stated that the victim was allured into a physical relation on the pretext of marriage and that an amount of Rs.37,00,000/- was taken from her on the same pretext. It is further the contention that the victim had to leave for Italy in view of the fact

that her son was unwell.

6. Heard.

7. In the present case the allegations are primarily that the petitioner had developed physical relations with the victim on the pretext of marriage. There are also allegations of cheating which have been leveled against the petitioner. The present case seems to be more of a case of relationship having gone sour and financial issues between the parties. The petitioner has been in custody for a period of 8 months and 8 days. The examination-in-chief of the victim concluded on 03.10.2023, however, the cross-examination was deferred only for the victim to produce her original passport. Thereafter, the victim has not appeared in Court despite being bound down for 17.10.2023 vide order dated 09.10.2023. Even thereafter she has not appeared in Court. The trial is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars any further.

8. In view of the above and without commenting upon the merits of the case, this Court deems it to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

9. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

10. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

11. Disposed off. Pending applications, if any, also stand disposed off.

13.12.2023

Aman Jain

(ALKA SARIN)

JUDGE

NOTE:

Whether speaking/non-speaking: Speaking

Whether reportable: YES/NO