

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**221****CRM-M No.34372 of 2023****Date of Decision : 03.11.2023**

Lakhvir Singh @ Lucky

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Stephan Masih, Advocate for the petitioner.

Mr. M.S. Tiwana, AAG Punjab.

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.142 dated 27.04.2022 under Section 376 of the Indian Penal Code, 1860 registered at Police Station Dera Bassi, District SAS Nagar (Mohali).

2. The FIR was registered on the statement of the complainant wherein it has been stated that she had been in relationship for the last 09 years with the petitioner, who is a married man, and that the petitioner had promised that he would divorce his wife and would get married to her. He had also been introducing the complainant to his family and had also used all her money lying in her account. It is further the allegation that though the petitioner did get a divorce from his wife, however, instead of marrying the complainant he married some other woman.

3. Learned counsel for the petitioner would contend that the petitioner and the complainant were in consensual relationship and that the complainant was well aware that the petitioner was a married man. Learned counsel for the petitioner would further contend that even as per allegations in the FIR the relationship between them continued for over 09 years prior to registration of the FIR. It has further been contended that the medical was also got conducted one year after the date of the alleged last incident mentioned in the FIR.

4. Learned State counsel has filed the custody certificate as per which the petitioner has been in custody for a period of 10 months and 19 days. Learned State counsel on instructions from ASI Sukhdev Singh has stated that the statement of the victim/complainant stands recorded and 11 witnesses still remain to be examined.

5. I have heard learned counsel for the parties.

6. In the present case, even as per the allegations in the FIR, the petitioner and the complainant were in a consensual relationship for over 09 years. Further allegation is that the petitioner had introduced the complainant to his family and had also assured that he would marry her. However, from a perusal of the FIR it is also apparent that the complainant was aware that the petitioner herein was a married man. As per the allegations the petitioner, who had promised to get married to the complainant after divorcing his wife, married some other woman and hence the present FIR. It has been stated in the FIR that in the year 2020 the petitioner got a divorce from his wife and thereafter got married to someone else. The FIR was registered on 27.04.2022 and the medical was conducted on 06.06.2022. In the medical, as per the history given to the doctor, the last time when the petitioner had

physical relations with the complainant was March 2021. The complainant has been examined, however, 11 witnesses are yet to be examined. The conclusion of trial is likely to take some time and the petitioner has already been in custody for a period of 10 months and 19 days.

7. In view of the above and without commenting upon the merits of the case, I deem 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.

8. 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.

9. 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.

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

(ALKA SARIN)
JUDGE

03.11.2023
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO