

2023:PHHC:096789

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

CRM-M-38703-2022

Date of Decision: 28.07.2023

JASWANT SINGH

... PETITIONER

VS.

STATE OF PUNJAB

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Dr. Sukhdeep Kaur, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, DAG, Punjab.

VIVEK PURI, J.(ORAL)

1. The petitioner is seeking regular bail in the case bearing FIR No. 20 dated 06.04.2022 under Section 376 IPC registered at Police Station Amir Khas, District Fazilka.
2. Custody certificate has been placed on record.
3. Briefly, as per the allegations in the FIR, the prosecutrix had solemnized marriage with the petitioner about three years prior to the occurrence and a daughter was born from the wedlock. The marriage was not registered. The petitioner had deserted her and performed engagement with another girl. On 2.10.2020, the petitioner had taken the prosecutrix with another person for roaming and he committed rape upon her.
4. Learned counsel for the petitioner contends that the prosecutrix was already married with one Balkar Singh and was in live-in-relationship with the petitioner. Even otherwise, if the allegations are believed, at the most the offence under Section 376-B IPC is made out which is bailable. The statement of the prosecutrix during the course of trial has been recorded. The petitioner is in custody for a period of 01 year, 02 months and

07 days. The prosecutrix is aged about 23 years.

5. Learned State counsel has opposed the bail application on the score that there are categoric allegations of commission of forcible sexual intercourse levelled against the petitioner and out of 13, only 01 witness has been examined till date.

6. The controversy as to whether the prosecutrix had solemnized marriage with the petitioner or they were in live-in-relationship or sexual intercourse was committed against her wishes, will be a debatable and moot point during the course of trial. The statement of the prosecutrix in the trial Court has already been recorded. As such, it cannot be said that the petitioner can, in any manner, influence or win over her. The petitioner is in custody for a period of 01 year, 02 months and 07 days and not involved in any other case. Still 12 more witnesses remain to be 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.

7. 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.

28.07.2023
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(VIVEK PURI)
JUDGE

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