

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

210

CRM-M-49203-2023(O&M)

Date of decision: 04.10.2023

Ashish

...Petitioner(s)

Vs.

State of Haryana

...Respondent(s)

CORAM:

HON'BLE MS. JUSTICE NIDHI GUPTA

Present: -

Ms. Sharmila Sharma, Advocate
for the petitioner.

Mr. Brijesh Sharma, AAG Haryana.

NIDHI GUPTA, J.

Prayer in this first petition filed under Section 439 Cr.P.C.

is for grant of regular bail to the petitioner in case FIR No.49 dated 15.03.2023 under Sections 376(2)(n), 406, 465, 468, 493, 494 and 495 IPC registered at Police Station Women Rohtak, District Rohtak.

2. FIR in the present case has been registered on the basis of statement of the complainant/wife of the petitioner. Facts as contained in FIR are reproduced hereinbelow:-

"To, the Superintendent of Police, Rohtak, Sub: For taking legal action. My humble request is that I am a resident of Reema D/O Krishna Indira Colony, Rohtak. I submit as under my husband Ashish S/O Ramesh Indira Colony solemnized court marriage with me and he was already married. I was not aware of this fact. We stayed together for about 9 months, we solemnized marriage on 16/06/2022 at Arya Samaj Temple and Court Marriage was solemnized at Tis Hazari Court, Delhi. My husband Ashish son of Ramesh Kumar took all my gold and silver ornaments to his parents and also took away the cash. Now I am living all alone in a rented house. I am living here and

have left nothing with me at the moment. And even when I call, he is not picking up the phone and his phone is also switched off. His mobile number is 968992102, Now I came to know that he is already married for the second time. He has cheated me by marrying me and have committed wrong to me. He has taken away all my belongings. Ashish son of Ramesh, cheated me my solemnizing marriage with me and he has done wrong with me and stolen my belonging. Stern legal action should be taken against him and my gold, silver and money should be recovered and I want stern legal action against him....”

3. Learned counsel for the petitioner inter alia submits that the petitioner is a married man, and the complainant is a 38-year-old divorcee having two children from her first marriage, who are 19 and 15 years of age. Learned counsel contends that the relationship between the petitioner and the complainant was consensual and they were in a live-in relationship; and subsequently, the petitioner had even solemnized Court-marriage with the complainant albeit without obtaining divorce from his first wife. Learned counsel further contends that as the petitioner and the complainant are neighbours, so it has been falsely stated by her in the FIR that she was not aware of the first marriage of the petitioner. Learned counsel reiterates that the complainant had entered into a physical relationship and marriage with the petitioner while being fully aware of the factum of earlier marriage of the petitioner. It is submitted that accordingly, allegations made in the FIR are false and fabricated and it is prayed that therefore, the petitioner be released on regular bail.

4. Per contra, learned State Counsel opposes the prayer for grant of regular bail and submits that none of the witnesses have been examined so far and therefore, if the petitioner is released on bail, there is every apprehension that he may try and influence the witnesses and tamper with the evidence. Learned State Counsel further submits that the consent for physical relationship given by the complainant was based on the misconception regarding status/factum of previous marriage of the petitioner, as wrongly conveyed by the petitioner to the complainant. Learned State Counsel further points out that in the Court-marriage solemnised between the petitioner and the complainant on 16.06.2022, the complainant has mentioned her marital status as 'divorcee' whereas the petitioner has shown his marital status as 'unmarried'. It is further submitted that it has also been alleged in the FIR that the petitioner took away all the gold, silver ornaments, and cash of the complainant. It is submitted that accordingly, serious allegations have been made in the FIR against the petitioner, material evidence in respect of which is yet to be led, and therefore it will be detrimental to the cause of justice if the petitioner is released on bail. Learned State Counsel further informs that custody certificate is not available today, however, the petitioner has been in custody since 31.03.2023.

5. No other argument is made on behalf of the parties.

6. I have heard learned counsel for the parties.

7. Without commenting on the merits of the matter, however, keeping in view the totality of the facts and circumstances of the

case, in particular the fact that material witnesses including the complainant/prosecutrix, are yet to be examined in the present matter, I find no ground is made out to grant the concession of regular bail to the petitioner at this stage. Present petition accordingly stands **dismissed**.

8. Pending application(s) if any also stand(s) disposed of.

04.10.2023

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No