

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

228

CRM-M-55240-2023 (O&M)

Date of order: 09.11.2023

Narender @ Karan

.....Petitioner(s)

Vs.

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sanchit Punia, Advocate
for the petitioner.

Ms. Deep Shikha Chauhan, AAG Haryana.

Nidhi Gupta, J.

Present is the second petition filed by the petitioner under Section 439 of Code of Criminal Procedure (hereinafter referred to as "Cr.P.C.") seeking grant of regular bail in case FIR No.212 dated 18.05.2022 (Annexure P1) registered under Sections 376, 376(2)N, 377, 323, 406, 495, 506 and 34 of Indian Penal Code, 1860 (hereinafter referred to as "IPC") at Police Station City Tohana, District Fatehabad.

2. Brief facts of the case as stated in the FIR lodged by the victim/complainant, who is a 33 years old woman, are that she had met the petitioner 'about 3-4 years ago' when he had told her that he was a divorcee and had one son from previous marriage who was residing with alleged ex-wife of the petitioner. It has been stated that relationship between the petitioner and the complainant developed into love and subsequently, thereafter, they got married on 20.11.2020. Subsequently,

and had not divorced his previous wife and therefore, she filed the present FIR.

3. Learned counsel for the petitioner refers to statement of the complainant, on the basis of which present FIR (Annexure P1) was registered and submits that as per the said statement *“That recently, last month in first week of April, I came to know that accused Narender is married to accused No.2 Jyoti Chaudhary and their marriage had taken place about 7-8 years ago and they are having one son from the said wedlock, who is studying in Aryan School, Camri Road while accused No.2 Jyoti Chaudhary is serving in C.R. Law College as a guest faculty, where she has given her status as married (illegible) and accused No.1 had kept me for enjoyment while accused No.2 Jyoti was enjoying my salary”*. Thus, the complainant has admitted that she came to know about previous marriage of the petitioner in April, 2022, however, FIR has been registered one-and-a-half months thereafter on 18.05.2022. Learned counsel further submits that allegations made in the FIR are patently false and fabricated as, as per the statement of the previous wife of the petitioner namely Jyoti (Annexure P10) under Section 161 Cr.P.C., she has stated that *“In August 2017, Anjali messaged me on facebook and asked my mobile number, which was given to her by me. In the year 2017, I and Anjali talked to each other through whatsapp and facebook.*

4. Learned counsel contends that therefore, it is clear that the complainant was well aware of the subsisting marriage of the petitioner. Learned counsel also refers to statement of mother of the complainant namely Sheela Ranbir Sandhu under Section 161 Cr.P.C.

(Annexure P11) wherein she has also admitted that *"....Marriage of my neighbor Ramphal's daughter Sunita was performed in 2016. In the said marriage, Narender @ Karan resident of Hisar and his family "kknhes" had also come. In the said marriage Narender and his ifjokj had also come. That we became acquainted with family of Narender in the said marriage"*.

Learned counsel also refers to the chat dated 18.10.2020 of the complainant with a friend of the petitioner (Annexure P4) wherein the friend of the petitioner had asked the complainant to enter into Court marriage with the petitioner to which, she had replied that *"2nd ni kar sakte..jab tak 1st wali officially h"*. It is submitted that accordingly, the allegations made in the FIR that the complainant was not aware of the first marriage of the petitioner, are utterly false and fabricated and she entered into consensual relationship with the petitioner of her own will and accord. Learned counsel for the petitioner further submits that the complainant has been examined as PW1 on 20.09.2023 wherein she has supported the prosecution case.

5. Notice of motion.

6. Ms. Deep Shikha Chauhan, AAG Haryana accepts notice on behalf of respondent-State and files custody certificate dated 08.11.2023, which is taken on record. Learned State Counsel vehemently opposes the prayer for grant of regular bail to the petitioner and submits that serious allegations have been made against the petitioner. As per custody certificate, the petitioner has been in custody as under trial from 22.07.2022 till date, i.e. for a period of 1 year 3 months 17 days.

7. I have heard learned counsel for the parties.

8. Without commenting on the merits of the matter, however, keeping in view the period of custody undergone by the petitioner and in view of the fact that material witness i.e. the complainant has already been examined, present petition is **allowed**. Petitioner namely Narender @ Karan s/o Dhan Singh is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.
9. However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.
10. Pending application(s) if any also stand(s) disposed of.

09.11.2023
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No