

GAUTAM SHARMA **VERSUS** **...PETITIONER**

STATE OF HARYANA **...RESPONDENT**

1. Custody certificate of the petitioner has been placed on record.
2. Gautam Sharma-petitioner is seeking regular bail in the case bearing FIR No.433 dated 16.12.2022, under Sections 376(2)(n)/506 IPC,1860 registered at Police Station Sector-53, Gurugram.

2. Learned counsel for the petitioner contends that the prosecutrix is aged about 34 years. The petitioner and the prosecutrix were in live-in-relationship for a period of about 2½ years. The prosecutrix has levelled false allegations to the effect that he developed live-in-relationship on the false pretext of the petitioner to solemnize marriage with her. In fact, the petitioner is a married person having two children and the prosecutrix was well aware of this fact. The petitioner is in custody for a period of 11 months and 03 days and not involved in any other case. The statement of the prosecutrix during the course of trial has been recorded. The relationship between the petitioner and the prosecutrix was consensual.
3. Learned State counsel has opposed the bail application on the score that the prosecutrix while appearing in the witness-box during the course of trial has levelled categoric and specific allegations against the petitioner. Out of 15, 08 witnesses have already been examined.

4. It is significant to note that the prosecutrix is aged about 34 years. The allegations are to the effect that she had entered into live-in-relationship with the petitioner on his false pretext to solemnize marriage at a later stage. The petitioner is a married person having two children. The relationship continued for a period of 2½ years. It becomes doubtful as to whether during that period of time the prosecutrix would not have come to know about the family background of the petitioner. It will be debatable and moot point during the course of trial as to whether the relationship between the petitioner and the prosecutrix was consensual. The statement of the prosecutrix during the course of trial has been recorded. As such, it cannot be said that the petitioner can in any manner win over or influence the prosecutrix. The petitioner is in custody for a period of 11 months and 03 days and not involved in any other case. Still 07 witnesses remain to be examined. The conclusion of trial is likely to take sometime. No fruitful purpose will be served by detaining the petitioner in further custody. As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner.

5. Without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

6. The petition is allowed accordingly.

21.11.2023

renubala

(VIVEK PURI)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No