



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-8652-2024
Date of decision: 15th May, 2024

Karan Singh
...Petitioner(s)
Versus
State of Haryana and another
...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Ms. Alisha Soni, Advocate for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in FIR mentioned below:-

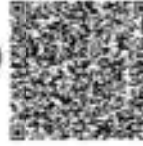
FIR No.	Date	Police Station	Sections
143	05.09.2023	Women Police Station, Jind	376(2)(n) and 506 of IPC, 1860

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of written complaint filed by the complainant 'A' (name withheld) on alleging therein that she was married with one 'M' (name withheld) in the year 2020. As there was matrimonial discord between them, therefore, she got separated from him and had filed a petition seeking divorce against him in District Court, Jind which was pending. In the meanwhile, she happened to meet the



present petitioner, who on the pretext of helping her in the court case, took her phone number and had started conversation with her about the case filed by her against her husband and then by inducing her on the pretext of performing marriage with her, on 12.05.2023, he took her to Moon Star Hotel room on the pretext of performing marriage with her and forcibly developed physical relations with her. She was then taken by him to Rohtak on the same pretext wherein he procured her signatures on a false affidavit of live-in relationship. Thereafter, he started physically abusing her and extending threats to kill her and her child, if she disclosed about his acts of ravishing her, to anybody else. Accordingly, she prayed for taking action against him. After registration of FIR, investigation proceedings were initiated. The prosecutrix was medically examined. Her statement under Section 164 of Cr.P.C. was recorded. The petitioner was arrested on 02.11.2023. He suffered disclosure statement admitting his involvement in the subject crime. After completion of usual formalities of investigation, challan was presented against the petitioner and presently, he is facing trial for commission of aforementioned offences. He had moved an application before the learned trial court for grant of regular bail which was dismissed vide order dated 29.01.2024.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel, that he has been falsely implicated in this case. Infact, the petitioner and the prosecutrix were living in live-in relationship from the last three months prior to her lodging of the FIR. He



had not made any promise to marry with her. Moreso, even she could not perform marriage with him due to the fact that her marriage was still subsisting. She had voluntarily entered into an agreement to live-in relationship with him and it was a case of consensual relationship and ingredients for commission of offences punishable under Section 376 of IPC were not attracted at all. He is in custody since 02.11.2023. The trial is likely to take time. His custodial interrogation is no more required. The medical evidence does not support the case of the prosecution. With these broad submissions, it is urged that the petition deserves to be allowed.

4. Status report has been filed by respondent-State as per which, the allegations as levelled against the petitioner by the complainant, were investigated and were found to be true. There are serious allegations against the petitioner. There are chances of his absconding or intimidating the prosecutrix and other material witnesses who are yet to be examined, if extended benefit of bail. Therefore, it is argued that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. The allegations against the petitioner are that he had started conversating with the prosecutrix on the representation that he would help her in settling the divorce case which was filed by her against her husband and then induced her to perform marriage with her. It had been further



alleged by her that on the pretext of performing marriage with her, he took her to a hotel on 12.05.2023 wherein she had been ravished by him. It is also the case of the prosecutrix that thereafter he had taken her to Rohtak wherein she was made to append her signatures on a live-in relation agreement and the petitioner had physically abused her thereafter. Annexure P-2 is copy of said live-in agreement which has been placed on record by the petitioner along with this petition and execution thereof is not denied by the prosecutrix. The prosecutrix is an adult married female though separated from her husband. It is not her version that she could not understand the contents of the live-in agreement executed by her. So far as the allegation that she had been induced by the petitioner to accompany him on the pretext of performing marriage with her and ravished is concerned, since her marriage itself had not been dissolved by 12.05.2023, therefore, it is a question of debate as to whether her being induced and agreeing to perform marriage with the petitioner was due to any misconception of fact. The settled proposition of law is that it is only misconception of fact that vitiates a woman's 'consent' as defined in Section 375 of IPC. This Court while deciding the plea of the petitioner for grant of bail is not required to go into the merits of the case and to draw any conclusion but the facts which are apparent from the allegations in the FIR as well as on the basis of material placed on record are themselves raised a question as to whether it is a case of consensual relationship or committing offence of rape. In view of the conspectus of the overall discussion as made above, the period of



incarceration of the petitioner, the fact that the prosecutrix stayed with the petitioner for over a period of three months prior to lodging of FIR and maintained physical relationship with him during the subsisting of her marriage and the surrounding facts and circumstances of the case but without meaning to make any comment on the merits of the case I am of the considered opinion that it is a fit case for extending benefit of bail to the petitioner. Hence, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
8. Since the main petition has been allowed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

15th May, 2024
Parveen Sharma

1. Whether speaking/ reasoned

:

Yes
2. Whether reportable

:

Yes