

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

205

CRM-M-15282-2023

Date of Decision: 04.04.2024

Navneet Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Shiv Charan Bhola, Advocate for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 0003 dated 12.01.2023 registered under Section 376 IPC at Police Station Nangal, District Rupnagar.

The aforesaid FIR was registered on the basis of statement of the prosecutrix herself, which is reproduced as under:-

“Statement of Gurpreet Kaur daughter of Janak Raj, resident of 81 Klin Area Nangal, Police Station Nangal, District Rupnagar aged about 27 years, Phone No: 98769-12837 stated that I am the resident of the said address and do domestic work. I was working as a computer operator at Nangal Gas Agency Sharma Store Nangal from 2012 to 2019. During that time, in May 2018, I got to know Navneet Singh son of Narinder Singh, resident of Bhikhiwind, Police Station Bhikhiwind, District Tarn Taran, who was working in the agency. Then we became good friends with time. Then in July 2018 Navneet Singh said me that he wants to marry me. In August 2018, Navneet Singh also had physical relations

with me several times in the gas agency by pretending to marry me. In 2019, I stopped working in the agency Navneet Singh continued but still to follow me and pretend to marry me and kept having sexual relations with me. Then on 30th October 2020, I left my house and went to Amritsar with Navneet Singh, where we lived as husband and wife in a rented house. On 28th July 2021, I gave birth to a boy. I did not get married according to any religious rituals since then. Whenever I asked for the marriage he used to put off me with some excuse. That now I came to know that the said Navneet Singh is already married from which he is having 2 children. The said Navneet Singh has physically abused me by giving me an illusion of marriage. Appropriate legal action may be taken against him.”

Learned counsel for the petitioner, *inter alia*, submits that the complainant/prosecutrix and the petitioner were in a consensual relationship. It is submitted that right from the inception of relationship the complainant/prosecutrix was well aware that the petitioner is a married man and even has 02 daughters. In this regard, learned counsel has referred to the statement of the prosecutrix dated 13.01.2023 (Annexure P-2) recorded under Section 164 Cr.P.C., wherein she has stated that *‘Navneet received phone calls of his two daughters in my presence. His daughter sought Rs.3500/- from Navneet which Navneet gave from my account’*. It has further been stated in the said statement that *‘after nine months my son Damanpreet Singh born to me’*. Learned counsel submits that a son was born in the year 2021, out of the relationship between the petitioner and the complainant/prosecutrix. Further, it is submitted that the present FIR was lodged after a delay of 4½ years of the first incident. The petitioner has been in custody since 12.01.2023. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is

prayed that petitioner be released on regular bail.

Learned counsel for the State has filed custody certificate dated 03.04.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 01 year, 02 months and 21 days. As per custody certificate, there is no other case against the petitioner.

Learned counsel for the State vehemently opposes the prayer for grant of regular bail to the petitioner and submits that the Hon'ble Supreme Court in *Anurag Soni vs. State of Chhattisgarh, (2019)13 SCC 1*, has held that if, physical relationship is established on the false promise and pretext of marriage, the same amounts to commission of offence under Section 376 IPC. It is submitted that in the present case, it is evident from the facts on record that the consent was obtained on the basis of fraud right from the inception of relationship between the parties. However, learned counsel for the State admits that the said fact has to be determined by the trial Court during the course of trial. Learned counsel for the State also informs that out of total 14 prosecution witnesses, 10 have already been examined.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case; including the custody period undergone by the petitioner and perusal of the custody certificate reveals that there is no other case against the petitioner; and the fact that material witnesses have already been examined; and also the fact that conclusion of trial will take considerable time, and no useful purpose would be

served by further detention of the petitioner. Thus, the present petition is **allowed.**

The petitioner-Navneet Singh S/o Narinder Singh is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

04.04.2024
rishu

(NIDHI GUPTA)
JUDGE

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