

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

204

CRM-M-19230-2024

Date of Decision: 25.04.2024

Vasudev

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Rajesh Bansal, Advocate for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

Mr. Rajesh Goyal, Advocate for the complainant.

NIDHI GUPTA, J. (ORAL)

Vakalatnama filed on behalf of the complainant is taken on record.

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. 0580 dated 14.09.2023 (Annexure P-1) registered under Sections 323, 406, 498-A and 506 IPC [Sections 328, 376(2)(n) and 494 IPC were added later on) at Police Station Old Industrial Panipat, District Panipat.

The aforesaid FIR was registered on the basis of a complaint moved by the wife of the petitioner, which reads as under:-

“....Sir, it is submitted that I xxxx wife of Vasudev is resident of Jyoti Nagar, Panipat. Vasudev has given false impression on marriage that I do not have any member in my family and

neither I have solemnize the marriage. My family members enquired about him and solemnized my marriage with Vasudev on 26.06.2023. He deceive me and my family members. When I went to my matrimonial home then my husband said that you have to live that I will keep you. He kept me with an intention to hostage me and maintained relations against my wish. When I denied then he give beatings to me and doing forcefully with me and stated that bring money etc. from your home, otherwise I will keep continuing this behaviour with you and he gives threatening of life to me. When I disclosed all this incident to my family members (parental side) then my family members made him understand but he also give threatening of life to them. Due to aggravation of quarrel I call at 112 and they have come and made understand. Then I came from my in-laws to parental house. My Istridhan is lying with them, the same may be recovered and legal action may be taken against him. My husband is having relations with other women. I have seen the photo on instagram and thereafter when I asked from him then my husband started giving more beatings to me and ousted me from the home by giving pushes. Legal action may be taken against all of them.”

Learned counsel for the petitioner, *inter alia*, submits that initially, the aforesaid FIR was registered under Sections 323, 406, 498-A and 506 IPC. However, the offences under Sections 328, 376(2)(n) and 494 IPC were added subsequently. It is submitted that the allegations

levelled in the FIR are false and fabricated, inasmuch as, before marrying the complainant, the petitioner had duly informed her that he was previously married and has 03 children from that marriage. It is contended that, therefore, the petitioner has not made any misrepresentation to the complainant/prosecutrix.

Learned counsel for the petitioner further refers to the statement of the complainant/prosecutrix recorded under Section 164 Cr.P.C., which has been referred to in the impugned order dated 08.04.2024 (Annexure P-2) at page 21 of the paper-book wherein, she has improved upon her earlier version and now stated that '*on 21.03.2023, applicant/accused established relationship with her after administering some stupefying substance and prepared her obscene photographs and subsequently blackmailed her and her family members to solemnize her marriage with him*'. Learned counsel contends that the said allegations are un-substantiated and have been made only with the intent to further improve the case of the complainant/prosecutrix and include offence under Section 376 IPC.

It is stated that the petitioner had obtained Panchayati Divorce dated 23.01.2023 (Annexure P-5) from his previous wife and only thereafter, the petitioner has solemnized second marriage with the complainant/prosecutrix on 26.06.2023. Learned counsel for the petitioner also refers to the photographs (Annexure P-4) and submits that perusal thereof shows that the complainant/prosecutrix is happy in the company of petitioner and was also happy at the time of marrying him. Further perusal thereof, shows that the petitioner and the complainant/prosecutrix had visited the temple together and mother of

the complainant/prosecutrix was seen giving blessings to them. The petitioner has been in custody since 19.02.2024. Thus, it is prayed that the present petition may be allowed and the petitioner be released on regular bail.

Learned counsel for the complainant/prosecutrix vehemently opposes the prayer for grant of bail to the petitioner and submits that the complainant/prosecutrix was never informed that the petitioner was previously married. It is submitted that she is 23-year-old; whereas the petitioner is 41 years of age. Further, it is submitted that the Panchayati Divorce dated 23.01.2023 (Annexure P-5) is a fake document as the previous wife of the petitioner is still residing with him.

On the other hand, on instructions learned counsel for the State informs that challan in the present case was presented before the learned trial Court on 10.04.2024, however, charges are yet to be framed against the petitioner. Learned counsel further informs that the next date of hearing before the learned trial Court is 29.04.2024, for consideration on charge. Further, it is submitted that the petitioner was previously married and had taken divorce from his previous wife vide Panchayati Divorce dated 23.01.2023, which has no legal sanctity in the eyes of law, therefore, the petitioner had committed an offence under Section 494 IPC.

Learned counsel for the State has filed custody certificate dated 24.04.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 02 months and 06 days.

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; and also the fact that trial has not commenced as the same is still at the stage of framing of charges, therefore, its conclusion 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-Vasudev S/o Sewa Ram, 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.

25.04.2024
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(NIDHI GUPTA)
JUDGE

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