



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55641-2023 (O&M)
Reserved on: 16.05.2024
Date of Decision:-28.05.2024

JASMAIL SINGH

.....PETITIONER

Vs.

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

(As on the reserved date)

Present: Mr. Manan Bhardwaj, Advocate, for
Mr. Abhishek Sharma, Advocate,
for the petitioner.

Ms. Sakshi Bakshi, A.A.G., Punjab.

HARPREET KAUR JEEWAN, J.

CRM-9144-2024

1. By this application, the applicant-petitioner seek permission to place on record the documents as Annexures P-10 to P-13 with the accompanying petition.
2. The application is allowed. The aforesaid documents are taken on record as Annexures P-10 to P-13 with the accompanying petition, subject to all just exceptions. Office to tag the same at appropriate place.

CRM-M-55641-2023 (O&M)

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No. 0093, dated 13.08.2023, under Sections 376 and 420 of the IPC, registered at



Police Station '*Koom Kalan*', District Ludhiana.

2. As per the allegations of the prosecutrix, she was known to the petitioner and his family members since the last 30 years as they were residing in the same village and also the posecutrix resided at their house for sometime when she studied in Ludhiana. The wife of the petitioner unfortunately died in the year 2017. His children were settled in Australia and Canada. He was having visitors visa for the aforesaid countries.

2.1 It is further in allegation that the matrimonial life of the prosecutrix was also disturbed and taking the advantage of emotional vulnerability, the petitioner approached her on the pretext of getting married to her. Even the relatives of the petitioner hatched a conspiracy to extract money from the prosecutrix. The petitioner and his co-accused/relatives had been assuring the prosecutrix that the petitioner will solemnize marriage after the prosecutrix get divorce from her husband. Being trapped with the said conversation, the petitioner had been extracting money from the prosecutrix through RTGS. She was cheated for a sum of ₹12,00,000/- and even physically exploited by the petitioner.

2.2 It is further the case of the complainant that in the year 2019, when she came to India, the petitioner had developed physical relationship with the prosecutrix and she got pregnant. However, the petitioner gave contraceptive medicines to the prosecutrix but the said medicine could not lead to complete abortion and ultimately when the prosecutrix reached U.S.A, she had to face a surgery and the doctors had to remove her uterus, in order to save the life of the prosecutrix. The petitioner had been cheated a sum of ₹12,00,000/- has been extracted and even she has been physically violated under a false promise of marriage.

3. Learned counsel for the petitioner *inter alia* contends that both



the parties are major. It was a consensual relationship. The petitioner and the complainant are known to each other for the last more than 30 years. As per the allegations in the FIR, it is neither a case of rape nor cheating. The allegations of pregnancy and abortion are also concocted. The photographs of the petitioner and the complainant (Annexure P-4) clearly indicate that it was consensual relationship between the petitioner and the complainant. The petitioner is in custody for the last more than 09 months since 16.08.2023.

4. Learned counsel for the State has opposed the present petition. However, while referring to the status report, it was contended that preliminary inquiry was conducted before registration of the FIR wherein it was found that the petitioner used to exploit the complainant physically and mentally under the garb of marriage but now the petitioner has refused to solemnize marriage with the complainant and wanted to perform his marriage somewhere else. It was also found that the petitioner was also fraudulently obtained money from the complainant.

4.1 The State counsel has, however, confirmed that the investigation is complete. Final report ('*challan*') under Section 173 Cr.P.C. has been presented before the learned trial Court. Charges have been framed under Section 376 (2) (n) and 420 of the IPC on 13.12.2023. 06 out of 17 witness have been examined.

5. I have considered the aforesaid contentions.

6. Both the parties are major and mature. They are also stated to be having children out of their previous wedlock. It is debatable issue and a matter of trial as to whether the relationship was consensual or the act of the petitioner was fraudulent. The petitioner is in custody for the past 09



months. Conclusion of the trial is going to take time as 06 witnesses have been examined so far.

7. Keeping in view the above, without making any comment on the actual merits of the case, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bail bonds and surety to the satisfaction of the trial Court/Duty Magistrate concerned.

8. However, it is made clear that nothing observed hereinabove will be taken to be an observation on the actual merits of the case, which would be gone into by the learned trial Court wholly on the basis of evidence led/gathered before it.

9. Pending miscellaneous applications, if any, also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

May 28, 2024
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Whether Speaking	Yes/No
Whether Reportable	Yes/No