

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

316

CRM-M-55289-2023 (O&M)
Date of decision: 11.03.2024

Ramandeep Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. P. B. S. Goraya, Advocate
for the petitioner.

Mr. A. S. Samra, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 55 dated 28.10.2022, registered under Sections 376 and 342 of IPC at Police Station Women, Amritsar City, District Amritsar.
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 statement recorded by the prosecutrix (*name withheld*) alleging therein that she became acquainted with the petitioner in the month of May, 2021. They had been conversating with each other and the petitioner had made promise to marry her. He had taken the victim to his house on 01.01.2022 and had

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committed rape upon her. She had disclosed about the incident to her family members who had contacted the petitioner and his parents, who had assured to perform marriage of the petitioner with her and the same was fixed for 04.03.2022 but just on the previous night, father of the petitioner telephonically informed the family of the complainant that the petitioner had left the house and therefore, there would be no marriage. She alleged that the petitioner had been sexually exploiting her on the pretext of performing marriage and had committed fraud with her. On this complaint, a case under Sections 342 and 376 of IPC was registered. Investigation proceedings were initiated. The petitioner was arrested on 21.01.2023. After completion of necessary investigation and formalities, challan under Section 173 of Cr.P.C. was presented in the Court and now the petitioner is facing trial for commission of aforementioned offences before learned trial Court. He had moved an application for grant of bail before learned trial Court, which was dismissed vide order dated 02.05.2023.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. He is in custody since 21.02.2023. The petitioner is a patient of cerebral palsy and it is impossible for him to sexually assault the victim against her wishes. In fact, they were in love with each other. The trial is to take some time. Therefore, he has argued that the present petition deserves to be allowed.

4. Status report has been filed by the respondent-State, as per which, on conducting thorough investigation in the matter, the allegations as levelled against the petitioner were found to be correct. In her statement recorded under Section 164 Cr.P.C., the prosecutrix had reiterated the

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allegations as levelled in her statement recorded before the Investigating Officer. The allegations levelled against the petitioner were serious in nature. The material witnesses are yet to be examined. There are chances of the petitioner's absconding from the process of Court or tampering with the evidence or attempting to influence the witnesses, if extended benefit of bail. Therefore, it is urged that the present petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record.

6. The petitioner is alleged to have made promise with the prosecutrix to marry her and on that pretext, he is alleged to have taken her to his house on 01.01.2022 and as per further allegations had ravished her against her wishes. The victim had disclosed about the incident to her family members on the same day and an assurance had been given by the petitioner and his parents to perform his marriage with the victim on 04.03.2022 but just one day after, he is alleged to have refused to perform the marriage with her. It is well settled proposition of law that in the context of a promise to marry, there is a distinction between a false promise given on the understanding by the maker that it will be broken, and the breach of a promise which is made in good faith but subsequently not fulfilled. In ***Pramod Suryabhan Pawar vs. State of Maharashtra and another : 2019 (9) SCC 608***, Hon'ble Supreme Court had observed that where the promise to marry is false and the intention of the maker at the time of making the promise itself was not to abide by it but to deceive the woman to convince her to engage in sexual relations, there is a "misconception of fact" that vitiates the woman's "consent" and amounts to rape. In this case, the allegations are that the petitioner had committed act of

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sexual intercourse with the victim by making a promise to marry her, which was false on the face of it, because even after fixing the date for performance of such marriage, the petitioner and his family members had refused to perform the same. The allegations against the petitioner are serious in nature. The material witnesses are yet to be examined. There is nothing on record to show that there would be any undue delay in conclusion of trial. The period of incarceration cannot be considered to be a ground for seeking concession of bail. Keeping in view the gravity of offences alleged to have been committed by the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, this Court is of the considered view that the petitioner does not deserve to be given concession of regular bail at this stage. Hence, the petition stands dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

11.03.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>