



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.63161 of 2023
Date of Decision: 15.05.2024
Reserved on: 09.05.2024

Navjit Singh ... Petitioner

Versus

State of Punjab and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ashish Aggarwal, Advocate,
for the petitioner.

Mr. Amandeep Singh Samra, AAG, Punjab.

Respondent No.2 in person.

MANISHA BATRA, J.

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

FIR No.	Dated	Police Station	Sections
37	27.05.2023	Verka, District Police Commissionerate Amritsar	376 of IPC

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that on 12.09.2022, a written complaint was submitted by the complainant before Commissioner of Police, Amritsar City alleging therein that she knew the petitioner since college time. From the last one and half years, they were having a love affair. In the month of December 2021, the petitioner had taken her to Shimla for a week. Thereafter she had become pregnant. The petitioner while assuring

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to marry her had got her pregnancy aborted but now he was refusing to marry her. She also alleged that she was even extended beatings by the petitioner and was also mentally tortured by him as well as her own family, both of whom were extending threats to kill her. Inquiry was conducted into the matter. The statement of the complainant as well as of the petitioner were recorded. As per the statement made by the complainant, the petitioner and the complainant came into contact with each other in the year 2019. Their friendship had gradually turned into a love affair and the petitioner had physical relations with her in a hotel in Amritsar for the first time. Thereafter he took her to Dharamshala (McLeodganj) on 27.01.2022 where also he had physical relations with her resulting into her becoming pregnant. Pregnancy was got aborted on 19.03.2022. The medical record in this regard was also procured by the Inquiry Officer. The petitioner, on the other hand, alleged that the complainant had met her at McLeodganj where he had gone along with a friend on 27.01.2022. She had confided with him that she was pregnant and that her parents would kill her and as a friend, he had helped her in getting her medical scans done. He denied that he ever had any sexual relationship with the petitioner. Formal FIR under Section 376 of IPC was registered on receiving the inquiry report on 27.05.2023. During investigation, the petitioner was arrested on 31.05.2023. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the petitioner is facing trial for commission of aforementioned offence.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely

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implicated in this case. Infact, the complainant was in relationship with one Ekam Singh since long and she even used to post her photographs clicked with him on social media platforms by proclaiming her relationship with the abovesaid Ekam Singh from the last five years and her claim as to being in relationship with the petitioner since 2019 was false. She had been impregnated by Ekam Singh who had disappeared all of sudden. It was the petitioner who had helped her during those days but instead of realizing the help rendered by the petitioner, she had started pressurizing him to perform marriage with her and on his refusal, she had falsely implicated him in this case.

4. It is further argued that bald allegations have been levelled by the complainant against her. No medical evidence has come on record to prove that she was subjected to sexual assault by the petitioner at any point of time. She was medico legally examined on 29.05.2023 and no external or internal injury was found on her person. Even otherwise, the matter had been reported by her to the police after a considerable delay and that is why the registration of FIR took a long time after lodging of the complaint. The petitioner had even refused to give her vaginal swab samples on 29.05.2023. It is also argued that the complainant being an adult and well educated female of 23 years of age was to be considered as a consenting party even if the allegations as levelled by her in the FIR were considered to be correct. While further arguing that no case for commission of offence punishable under Section 376 of IPC had been made out against him and there was neither any promise of marriage nor any proof of the petitioner having committed rape upon the complainant had been collected during

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investigation and further submitting that the trial is likely to take time, it is urged that the petition deserves to be allowed.

5. Status report has been filed by the respondent-State, as per which, after receipt of the complaint filed by the complainant on 12.09.2022, inquiry was conducted and the allegations against the petitioner having got the pregnancy of the complainant aborted on 19.03.2022 had been established from the medical record. It is further submitted that the statement of the complainant had also been recorded under Section 164 of Cr.P.C. The allegations against the petitioner were serious in nature. The complainant was yet to be examined. There were chances of the petitioner's fleeing or tampering with evidence by intimidating the complainant. Hence, it is argued that the petition does not deserve to be allowed.

6. It will not be out of place to mention here that the respondent No.2 had also appeared in person and stated that she adopted the same arguments as addressed by learned State counsel.

7. I have heard learned counsel for the parties at considerable length and have gone through the record.

8. The allegations as levelled against the petitioner are that he was having affair with the complainant and in the month of December 2021, he had taken her to Shimla, had impregnated her and had got her pregnancy aborted by assuring to marry her but subsequently refused to marry her. During the course of inquiry, the complainant recorded that the petitioner had developed sexual relations with her in a hotel in Amritsar and then took her to McLeodganj on 27.01.2022 wherein also she was kept in a hotel and was indulged in sexual relations. The contents of the statement made by the

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complainant during the course of inquiry are not consistent with the allegations as levelled in her original complaint which culminated into lodging of FIR since as per the same, it was only in the month of December 2021 that physical relations were developed between them when the petitioner had took her to some hotel at Shimla and there is no mention of her being ravished by him at Amritsar or Dharmshala. It has also come on record that the complainant could not even disclose the names of hotels wherein she had been taken to and kept by the petitioner. The allegations in the FIR and in the statement recorded by the complainant during the course of inquiry, even if considered to be correct prima facie do not make out a case of making inducement by the petitioner of the complainant to have sexual relations with her by making any promise to marry her. Rather from the allegations as levelled in the original complaint, it appears that the petitioner assured to marry her after she had become pregnant and not before that. As such, it cannot be presumed that there was any promise to marry or breach of such promise to marry at the time of petitioner's entering into physical relationship with the complainant.

9. The petitioner has placed on record Annexures P-2 and P-3 (Colly) copies of certain photographs claiming that these photographs are of the complainant and one Ekam Singh with whom she had been having relationship from the last five years and even proclaimed so on social media and it was the said Ekam Singh who had impregnated her. Though these allegations cannot be looked into at this stage by this Court while deciding the plea for grant of bail to the petitioner and it is for the trial Court to go into the veracity of these allegations on the basis of thorough assessment and

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evaluation of the evidence to be produced before it during trial. However, keeping in view the fact that even prima facie it has not come on record that the petitioner had induced the complainant to have sexual relations with her by making any promise to marry her which he did not intend to fulfill or he had committed breach of such promise and backed out from such promise and it is also a debatable question as to whether it was a case of consensual relationship between two adult persons or a case of rape, I am of the considered opinion that the petitioner deserves to be extended benefit of bail. Hence, the petition is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court.

10. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

15.05.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No