

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

B.A. No. 411/2021
c/w
CRM(M) No. 842/2021

**Rahul Kumar, Age 31 years,
S/O Sh. Ramesh Kumar,
R/O Kore Jagir, Kandoli Nagrota, Jammu.**

..... Petitioner(s)

Through: Mr. Rohit Kohli, Advocate &
Mr. Raghav Gaiind, Advocate.

Vs

**UT of J&K Through
SHO, Police Station, Nagrota Jammu.**

..... Respondent(s)

Through: Mr. Pawan Dev Singh, Dy. AG.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

ORDER
(06.11.2024)

B.A. No. 411/2021

1. Applicant, namely, Rahul Kumar through the medium of this application under Section 438 CrPC seeks grant of bail in anticipation of his arrest in a case registered vide FIR No. 0433/2021 (*hereinafter called the “**impugned FIR**”*) at Police Station, Nagrota, Jammu on 21.11.2021 for commission of offences punishable under Sections 376, 420 and 495 IPC on a complaint lodged by ‘X’ (to hide her identity), alleging that she had been subjected to rape by the applicant herein, under the pretext of marriage on the strength of a marriage agreement entered upon between the two and that the applicant had cheated her by not performing the marriage as per the rituals of the community and also refused to take her to her matrimonial home.

2. The applicant sought him to be admitted to bail on the ground that neither he had made any false promise of marriage nor contracted the marriage with the complainant, as such, there was no question of commission of any of the offences, as alleged against him and that he being an employee of Para-Military Force is being subjected to unnecessary harassment by the complainant, who has made false allegations in the impugned FIR against him in view of the fact that she had sworn affidavits on different occasions and furnished the same to the investigating agencies like Nagrota Police and Women Cell, Gandhi Nagar, Jammu, stating that she had filed false complaints earlier than that.

3. Pursuant to notice, objections have not been filed so far, however, Mr. Pawan Dev Singh, learned Dy. AG while appearing has presented a status report formulated by the SHO, Police Station, Nagrota Jammu, with a request that the same be taken on record. On his statement, the status report dated 24.10.2024 is taken on record. As per the status report, the SHO of the concerned Police Station has stated that the victim's claim that she got pregnant and aborted, could not be established medically, as there was no medical record available, which could show victim's abortion and that on the strength of the statement of one-Vidya Sagar through whom the marriage agreement was made by the victim and the accused that she had explained both the parties about the agreement and moreover, as per marriage agreement, as claimed by the victim, she never married before 27.11.2018. However, later on,

it was found that she had married to one-Subash Chander of Parladpur Colony, Jammu, from whom she got divorce on 02.02.2015; that apart from this, the victim twice through affidavits took back her complaint against the accused and that the accused was later on married to a different woman on 24.05.2021. The investigating agency has, thus, concluded the investigation to the effect that no offence was made punishable under Sections 420 & 495 IPC against the accused, however, offence under Section 376 IPC was duly established on the basis of the statement of the victim under Section 164 CrPC.

4. Heard and considered.

5. This Court vide interim order dated 08.02.2022 while noticing the fact of swearing of the affidavits by the complainant on 14.05.2019, which she had given to the Incharge Police Station, Women Cell, Gandhi Nagar, Jammu, SDPO Nagrota, Jammu and Incharge Police Station, Nagrota Jammu, stating on oath that she had filed false and frivolous cases, against the accused and requested for dropping of the complaints and also that she had moved a Maintenance Petition under Section 488 CrPC claiming to be the legally wedded wife of the accused, had admitted the applicant/accused to interim bail, which was extended from time to time.

6. In view of the investigation carried so far, as per the aforesaid conclusion drawn as in the status report and also in view

of the facts and circumstances of the case, this Court is of the considered opinion that the applicant is entitled to be admitted to bail, in anticipation of his arrest, in the aforesaid case, for the reason that the complainant has made waivering statements, particularly, with regard to her marital status, allegations/accusations against the accused at earlier times and then backtracking from the same by swearing affidavits and the conclusions drawn by the investigating agency.

7. Viewed, thus, the bail application is **allowed** and the applicant is admitted to bail, subject to the following conditions:-

- (i) that he shall furnish bail and personal bonds to the tune of ₹ 50,000/- each, to the satisfaction of the SHO, concerned Police Station
- (ii) that he shall not hamper the investigation in any manner whatsoever;
- (iii) that he shall not tamper with the prosecution evidence in any manner or associate with the prosecution witnesses to influence them.

8. Bail application is, accordingly, **disposed of**.

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Adjourned.

List again on **23.12.2024**.

(M A CHOWDHARY)
JUDGE

JAMMU
06.11.2024
RamKrishan