

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-24834-2015 (O&M)

Date of Decision: August 21, 2015

Feroz Khan

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Arun Singla, Advocate,
for the petitioner.

Mr. K.S Pannu, D.A.G., Punjab.

Mr. Munish Puri, Advocate,
for informant.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

NARESH KUMAR SANGHI, J.(ORAL)

Prayer in this petition, filed under Section 439, Cr.P.C., is for grant of bail to the petitioner Feroz Khan son of Aas Mohammad, who has been booked for having committed the offences punishable under Sections 120-B, 363 and 366-A, IPC, in a case arising out of FIR No. 51 dated 12.06.2015, registered at Police Station Shahpur Kandi, District Pathankot.

Learned counsel for the petitioner contends that Tanisha Mahajan @ Sana Khan had left the house of her father with her free

will and consent. No one had enticed her to leave her parental house. She (prosecutrix) solemnized the marriage with Feroz Khan son of Jamalu Deen who happens to be brother-in-law (sister's husband) of petitioner Feroz Khan son of Aas Mohammad. Feroz Khan son of Jamalu Deen and the prosecutrix presented a petition before this Court seeking protection of their lives and liberty and the same was accepted vide order dated 10.07.2015 (Annexure P-3). It was also pointed out that on the direction of this Court, the prosecutrix did appear before this Court along with Feroz Khan son of Jamalu Deen on 14.08.2015 and stated that none had enticed her to leave the house of her father. She herself had gone to Delhi for solemnizing the marriage with Feroz Khan son of Jamalu Deen. He further submits that even otherwise there was no role of the petitioner in assisting his brother-in-law (wife's brother) Feroz Khan son of Jamalu Deen to solemnize the marriage with the prosecutrix.

Learned counsel for the State very fairly concedes that the prosecutrix had appeared before this Court on 14.08.2015 and did state that she was not asked by any person to leave the house of her father and that she had herself solemnized the marriage with Feroz Khan son of Jamalu Deen.

Learned counsel for the informant i.e. father of the

prosecutrix submits that at the time of leaving the house of her father, the prosecutrix was less than 18 years of age and hence she was kidnapped by Feroz Khan son of Jamalu Deen, the co-accused of the petitioner.

I have heard the learned counsel for the parties and with their able assistance gone through the material available on record.

The petitioner has been booked for hatching a conspiracy for kidnapping the prosecutrix. Since the prosecutrix had appeared before this Court and stated that she had left the house of her father with her free will and consent and no one was responsible for the same, therefore, it would be a moot point during investigation/trial whether it is a case of kidnapping etc.

The petitioner who is brother-in-law (sister's husband) of Feroz Khan son of Jamalu Deen, who allegedly solemnized the marriage with the prosecutrix is behind the bars from 15.06.2015 and investigation qua him is complete. Therefore, his further incarceration would not be of any consequence.

Resultantly, the present petition is allowed. Petitioner Feroz Khan, son of Aas Mohammad, resident of Durga Vihar, New Delhi is ordered to be released on bail during the pendency of the investigation/trial of the present case, subject to his furnishing bail

bonds to the satisfaction of the learned Chief Judicial Magistrate/Duty
Magistrate, Pathankot.

August 21, 2015
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(NARESH KUMAR SANGHI)
JUDGE