

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**Criminal Misc. No.M-35045 of 2015
Date of decision: October 16, 2015**

Brijeshwar @ Bablu

....Petitioner

versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the Digest? Yes/No

Present: Mr. Sanjeev Duggal, Advocate for the petitioner.

Mrs. Ritu Punj, Addl. A.G., Punjab.

DAYA CHAUDHARY, J.

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail in case FIR No.24 dated 01.09.2015 registered under Sections 363, 366, 120B of the Indian Penal Code at Police Station Dorangla, District Gurdaspur during the pendency of the trial.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case whereas no offence is made out under Sections 363, 366, 120B IPC and the petitioner is in custody since 02.09.2015. Learned counsel also submits that the petitioner and

daughter of the complainant performed marriage on 25.08.2015 and filed protection petition before the Hon'ble Himachal Pradesh High Court at Shimla which came up for hearing on 03.09.2015 and the same was disposed of with directions to Superintendent of Police, Kangra to further direct SHO, Police Station Sadar, Shimla to provide security to the petitioners. Learned counsel further submits that the complainant was also present during hearing of the protection petition. As per case of the prosecution, daughter of the complainant was kidnapped on 20.08.2015 whereas the matter was reported to police on 01.09.2015 i.e. after a delay of ten days from the date of occurrence whereas daughter of the complainant has already performed marriage with the petitioner on 25.08.2015. Learned counsel also submits that the daughter of the complainant was more than twenty-three years of age at the time of marriage and the complainant was well aware about her marriage with the petitioner.

Learned counsel for the respondent-State has not disputed the age of the daughter of the complainant and custody period but opposes bail on the ground that the daughter of the complainant is now residing with the complainant and her signatures were obtained on blank papers as recorded in the statement under Section 164 Cr.P.C.

In view of the submissions made by learned counsel for the petitioner and keeping in view order dated 03.09.2015 passed by Hon'ble Himachal Pradesh High Court at Shimla in protection petition **Annexure P-3** when the complainant was present and also the fact that the daughter of the complainant was major at the time of marriage,

simply by making statement contrary to the protection petition does not deprive the petitioner of his right and it cannot be said that it is a case of kidnapping.

Keeping in view the fact that the petitioner is in custody since 02.09.2015 and also the fact that no purpose would be served by keeping the petitioner in custody any further, the present petition is allowed and the petitioner, namely, Brijeshwar @ Bablu is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court.

However, it is made clear that the observations made hereinabove shall not be treated as an expression of opinion on the merits of the case.

October 16, 2015

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**(DAYA CHAUDHARY)
JUDGE**