

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No. 39559 of 2015
Date of decision:-26.11.2015

Naresh Kumar

.....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. Vaibhav Sehgal, Advocate,
for the petitioner.

Mr. Rupam Aggarwal, DAG, Punjab
for the respondent-State.

DAYA CHAUDHARY, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C for grant of regular bail to the petitioner in case FIR No. 12 dated 14.01.2015 registered under Sections 363,366-A IPC (Section 376 IPC added later on) at Police Station Division No.6 (Industrial Area), District Ludhiana.

Learned counsel for the petitioner submits that as per allegations in the FIR, no offence is made out and the petitioner has falsely been implicated in the case. As per certificate issued by school, the daughter of the complainant was major as her date of birth is 26.10.1996. She has attained the age of discretion and has solemnized marriage with the petitioner as has been reflected in the certificate issued by office of the Deputy District Collector. She was in company of the petitioner for a period of five months and resided in the house of parents of the petitioner but no hue and cry was ever raised, which would show that daughter of the complainant was

residing with the petitioner with her consent. Learned counsel further submits that the petitioner is approximately 21 years of age and no offence under Sections 366-A/376 IPC (Section 376 IPC added later on) is made out. Not only the age of the daughter of the complainant has wrongly been mentioned by the complainant but he remained silent for a long period. He further submits that the FIR was registered after a period of more than one month. Learned counsel has also brought to the notice of the Court the joint photograph of the petitioner with the daughter of the complainant (Annexure P-4), which would show that both of them have solemnized the marriage. The daughter of the complainant accompanied the petitioner at different places and it cannot be said that the marriage was against her wishes. He further submits that only the challan has been presented and even the charge has not been framed. The petitioner is in custody since 11.05.2015.

Learned State counsel has not disputed the custody period but opposes grant of bail to the petitioner on the ground of seriousness of offence and also that as per statement recorded under Section 164 Cr.P.C., the act was contrary to consent of the daughter of the petitioner. It is a matter of evidence, which is to be seen during trial.

In view of the submissions made by learned counsel for the petitioner; keeping in view the age of the victim as well as the fact that she has remained in the custody of petitioner for a long period along with the family members of the petitioner and his relatives; as per transfer certificate, the victim is major and she has solemnized marriage with petitioner; only challan has been presented and trial may take long time to conclude and no useful purpose would be served by keeping the petitioner in custody, the present petition is allowed. The petitioner is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court.

26.11.2015

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**(DAYA CHAUDHARY)
JUDGE**