

CRM-M-26014-2017

Date of Decision : 23.08.2017

Surender

.....Petitioner

versus

State of Haryana

....Respondent

CORAM : HON'BLE MRS. JUSTICE LISA GILL**Present:** Mr. Sunil Saharan, Advocate
for the petitioner.

Mr. Sanjay K. Saini, AAG, Haryana.

LISA GILL, JUDGE (ORAL)

Petitioner prays for the concession of bail pending trial in FIR No.26 dated 16.04.2017 under Sections 363, 366, 376, 506 IPC (Sections 342 IPC added later on) registered at Police Station Women Bhiwani, District Bhiwani.

It is submitted that the petitioner is a distant relative of the victim and has been falsely implicated in this case. In fact, marriage was solemnized by the petitioner and the victim on 05.04.2017 at Arya Samaj Mandir Vivah Sanskar Trust, Khyber Pass, Mall Road Near Durga Mandir, Delhi.

It is contended that the victim in this case accompanied the petitioner on 04.04.2017. After solemnization of marriage, they lived together till 16th April, 2017. The photographs of the marriage clearly show that there is no question of any forcible action on the part of the petitioner. It is apparent that the victim is not under the influence of any intoxicant at that time. Marriage was performed by following proper and complete ceremonies (saptpadi) and not by mere exchange of some garlands. Family members of the victim were not in favour of this alliance. Therefore, the

present case has been registered against the petitioner. It is argued that the falsity of the case is apparent from a bare perusal of the FIR wherein it is stated that the victim was present at the Bus Stand, Tosham along with her mother and niece. When the victim's niece started crying, the victim went to purchase bananas where she met the petitioner. Thereafter, she did not know what happened. Allegations of intoxication, forcible marriage etc. are thus raised.

Learned counsel argues that it is highly improbable that in case the victim had disappeared from the Bus Stand no action was taken by the family members of the victim. Moreover, the victim in this case, has since testified before the learned trial Court. Therefore, this application be allowed.

I have heard learned counsel for the parties.

Learned counsel for the State submits that specific allegations have been levelled against the petitioner for forcibly performing marriage with the victim on 04.04.2017. It is, however, not denied that the victim in this case is a major being of 24 years old and she has since testified before the learned trial Court. The petitioner, it is verified, is not involved in any other criminal case.

There are no allegations on behalf of the State that the petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts in the Court, if released on bail. Trial in this case is not likely to conclude in near future.

Keeping in view the facts and circumstances as above but without commenting upon or expressing any opinion on the merits of the

case, this petition filed by the petitioner is allowed. The petitioner be released on bail pending trial subject to his furnishing requisite bail bonds and surety to the satisfaction of the learned Trial Court.

It is made clear that the petitioner shall not try to contact the victim or any of her family members directly or indirectly. Any infraction, in this regard, may entail cancellation of bail.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

(LISA GILL)
JUDGE

23.08.2017

Neha

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No