

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

**CRM-M No. 32220 of 2018
DATE OF DECISION :- August 29, 2018**

Prayag Dhingra

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAN

Present:- Mr. Munish Mittal, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Nonish Kumar, Advocate
for Mr. Manoj Makkar, Advocate for the complainant.

This petition for regular bail has been filed by petitioner Prayag Dhingra, an accused in F.I.R. No. 09 dated 24.3.2018 for offences under Sections 4 & 8 of POCSO Act, 2012 registered with Police Station Women, District Yamuna Nagar.

Briefly stated the facts of the case as per the prosecution story are that complainant Pinki daughter of Sh. Balwinder Giri aged about 16 years, resident of Gandhi Nagar, Farakpur, Shiv Nagar, Yamuna Nagar submitted a written complaint to SHO Women Police, Yamuna Nagar on 24.3.2018 to the effect that accused Prayag Dhingra son of Satpal Dhingra, resident of House No. 360-L, Model Town near Dashehra Ground, Yamuna Nagar had been keeping physical relations with her for the last 7-8 months

on the pretext of contracting marriage with her. She conceived and then she disclosed that fact to her mother, who discussed the matter with Satpal Dhingra father of Prayag Dhingra. Then Prayag Dhingra started threatening her. She stated that Prayag Dhingra did not get married with her despite promising to do so. She thought of taking legal action.

On the basis of that complaint formal F.I.R. was registered. Prayag Dhingra was arrested in this case on 7.4.2018. After completion of investigation challan has been filed against him and trial is going on.

He had moved an application for regular bail to the Court of Sessions which was dismissed as such he has approached this Court craving for grant of similar relief. The request is being opposed by the State counsel.

I have heard learned counsel for the petitioner, learned counsel for the complainant and learned State counsel besides going through the record.

Learned counsel for the petitioner submitted that the F.I.R. was lodged by the complainant due to lack of communication and misunderstanding inasmuch as date for marriage between the petitioner and the complainant was fixed but due to some reasons it could not be solemnized on that date, however, the petitioner is still ready and willing to marry her. According to counsel for the petitioner complainant is a major and not minor as asserted by the prosecution. Learned counsel for the complainant also submits that complainant is a major and she is also ready to get marry with the petitioner, as such does not oppose the request for grant of bail to the petitioner. However, State counsel opposes the request.

During the course of trial statement of complainant-prosecutrix

was recorded as PW3 wherein she did not toe the line of prosecution and rather stated that she and Prayag Dhingra petitioner-accused used to love each other. The date of their marriage was fixed as 12.3.2018, however, marriage could not be solemnized on account of some misunderstanding between her and Prayag Dhingra. In her cross examination she has stated that her date of birth is not recorded in any office and as a result of ossification test her date of birth has been opined to be 20 years. She has further stated that Prayag Dhingra is ready to marry her and even today she is being looked after by Satpal Dhingra father of Prayag Dhingra and Satpal Dhingra is ready to accept her as wife of Prayag Dhingra. She stated that at the time of maintaining physical relations with Prayag Dhingra she was major and it was a consensual relationship between them. Smt. Kanti Devi mother of complainant-prosecutrix appeared as PW4 has also stated that her daughter and Prayag Dhingra were in love with each other and due to consensual relations her daughter became pregnant and Prayag Dhingra never committed rape upon her and did not allure her on the pretext of marriage. She had been declared a hostile witness at the instance of public prosecutor. It may be mentioned here that the complainant has also been declared a hostile witness.

The conclusion of trial is likely to take some time. Keeping in view the facts and circumstances of the case and that the complainant-prosecutrix and her mother have not supported the prosecution story and further petitioner has expressed his desire of getting married with the complainant who comes out to be the girl having attained majority, the petition deserves to be accepted. The present petition is allowed. The

petitioner is ordered to be released on bail on furnishing bail bond and surety bond to the satisfaction of the learned trial Court/CJM/Duty Magistrate, Yamuna Nagar at Jagadhari subject to the following conditions :-

- (i) he shall appear in the Court on each and every date of hearing.
- (ii) he shall not give any threat or intimidation to the prosecution witnesses.
- (iii) he shall not leave India without prior permission of the Court and shall surrender his Passport, if he has got one otherwise to furnish affidavit in that regard.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

In case the petitioner violates any term and condition on which the bail has been granted to him, the order shall be liable to be withdrawn.

(H.S. MADAAN)
JUDGE

August 29, 2018
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No