IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM M-52021 of 2018
Date of Decision: November 30, 2018

Manoj Sharma .....Petitioner

Versus

State of Haryana .... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Amandeep Saini, Advocate
for the petitioner.

Mr. Baljinder Virk, DAG, Haryana.

FATEH DEEP SINGH, J. (Oral)

This order shall dispose of first regular bail application under Section 439 Cr.P.C. in a FIR No. 43 dated 03.08.2018 under Sections 363/366-A IPC, registered at Women Police Station, Manesar.

The brief allegations brought to the notice of this Court are that the complainant happens to be the mother of the girl who has lodged a report with the police that on 14.1.2018 that their daughter aged 15 to 16 years had gone missing leading to registration of the present case, where suspicion has been raised against the present petitioner Manoj Sharma, leading to the arrest of the couple on 3.8.2018.

Mr. Amandeep Saini, counsel for the petitioner contends that it was a voluntary relationship of the grown up girl with the petitioner and has sought to place reliance on her statement under

AMIT RANA
2018.12.04 17:44
I attest to the accuracy and
authenticity of this document
Chandigarh

Section 164 Cr.P.C. placed on the file as Annexure P-1 made before learned JMIC Gurugram and the fact that the petitioner being a lawful and legal husband of the girl, he cannot be hauled up for commission of offences punishable under Section 363 and 366-A IPC and Section 6 of the POSCO Act.

Mr. Virk, learned State counsel on instruction of SI Meena, Police Station Manesar has sought to the oppose the bail on the grounds that the girl at the time of this occurrence was a minor and her date of birth as per the school certificate is shown to be as 11.05.2004 and, therefore, having enticed and taken away the minor girl forms the commission of offence, so slapped against the petitioner is made out.

Going through the submissions of the two sides, though the mother of the girl claims in her petition to the police that the girl was a minor. However, the girl in her statement made before the learned JMIC on 03.8.2018, consequent upon her detention by the police, claims her age 20 years and shown her willingness to stay with the petitioner. She has voluntarily accompanied and married the petitioner and they are legally wedded husband and wife.

More so, there being a disparity of age between the alleged school certificate and the claim of the girl, which is the subject matter for adjudication by the concerned trial Court. It is own stand taken by the State that very illegality of the marriage has not been put to question in any competent Court. The petitioner is behind the bars since long time.

AMIT RANA
2018.12.04 17:44
I attest to the accuracy and
authenticity of this document
Chandigarh

In the light of what has been discussed above, together with the fact that culpability, if any, of the petitioner shall be determined at the trial which is not likely to be concluded in the near future, this Court is of the opinion that this is a fit case for grant of bail. Accordingly, the petitioner is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Gurugram. However, it is made clear that anything observed herein shall not be construed as an expression on the merits of the case.

November 30, 2018 **(FATEH DEEP SINGH)**
amit rana **JUDGE**

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No

AMIT RANA
2018.12.04 17:44
I attest to the accuracy and
authenticity of this document
Chandigarh