

Criminal Misc. No. M- 6276 of 2018 (O&M)

Date of decision : April 17, 2018

Jitender

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. Arun Singal, Advocate
for the petitioner.

Mr. Anmol Malik, AAG, Haryana.

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No. 798 dated 18.09.2017 under Sections 363, 366A, 420, 467, 468, 471, 120B IPC registered at Police Station Model Town, Panipat.

It is submitted that the petitioner, a young man of twenty years, has been falsely implicated in this case at the instance of the complainant, who is the grandmother of the alleged victim. FIR under Sections 363, 366A IPC was initially registered on the statement of the complainant/ grandmother of the victim to the effect that her grand daughter went missing from home on 16.09.2017 at about 10/10.30 p.m. She had taken away some valuables including jewellery from the home. Allegation was raised against the petitioner of having allured and enticed her with an intention of getting married to her.

The victim was recovered on 26.09.2017 from the company of the petitioner. It is pointed out that the victim at the time of counselling as well as in her statement under Section 164 Cr.P.C. categorically stated that she left alongwith the petitioner out of her own free will and got married with him at Delhi on 18.09.2017. Learned counsel for the petitioner submits

that in her statement under Section 164 Cr.P.C. (Annexure P-3), the victim specifically stated that she wants to reside with the petitioner – her husband and does not wish to accompany her parental family. Medical examination was also refused by her. She disclosed her age to be 17. It is further contended that even if it is accepted that the victim, in this case, is minor, marriage between the petitioner and the victim is not null and void but merely voidable. Moreover, final report under Section 173 Cr.P.C. has since been presented. Charge against the petitioner stands framed. The petitioner undertakes to face the proceedings and not abuse the concession of bail, if afforded to him. It is, thus, prayed that this petition be allowed.

I have heard learned counsel for the parties.

Learned counsel for the State, on instructions from ASI Suresh Kumar, verifies that the victim in her statement under Section 164 Cr.P.C. stated that she solemnised marriage with the petitioner on 18.09.2017. It is further submitted that on verification, it was found that some marriage ceremony was carried out at Arya Samaj Mandir, near Tis Hazari Court, New Delhi. Statement of the Pujari in question, it is submitted, has been recorded under Section 161 Cr.P.C. However, it is submitted that the victim, in this case, is minor being under 18 years of age. Presently, she is residing with her grandmother. It is verified that the petitioner is not involved in any other criminal case. Trial in this case is not likely to conclude in the near future.

Needless to say the effect or otherwise of the statement of the victim under Section 164 Cr.P.C. or the alleged marriage solemnised between her and the petitioner shall be considered by the learned trial Court at an appropriate stage. No opinion is being expressed on the genuineness or

otherwise of the said marriage ceremony or the averments raised. It is confirmed by learned counsel for the State that charge against the petitioner has since been framed.

There are no allegations on behalf of the State that 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.

No useful purpose shall be served by keeping the petitioner incarcerated any longer. Keeping in view the facts and circumstances noted above but without expressing any opinion on the merits of case, it is considered just and expedient to allow this petition.

Consequently, 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, however, clarified that the petitioner shall not try to contact the victim, witnesses or any of her family members in any manner - directly or indirectly. Any such infraction on the part of the petitioner may entail cancellation of his bail.

It is reiterated that none of the observations made herein above are a reflection on the merits of the case and shall have no bearing on the trial.

April 17, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No