

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

Criminal Misc. No.M-9314 of 2018(O&M)

Date of Decision:April 18, 2018.

Parveen

Petitioner.

Versus

State of Haryana

Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.R.A.Sheoran, Advocate
for the petitioner.

Mr. Ramesh K.Ambavta, AAG., Haryana.

Mr. S.K.Tripathi, Advocate
for the complainant.

LISA GILL, J.

Petitioner seeks the concession of bail pending trial in FIR No.628 dated 16.10.2017, under Sections 363, 366, 420, 467, 468, 471, 201 IPC and Section 9 of Prohibition of Child Marriage Act, 2006, registered at Police Station Sadar Bhiwani, District Bhiwani.

It is submitted that the petitioner has been falsely implicated in this case on the basis of the complaint lodged by the father of the alleged victim to the effect that his daughter went missing from their house on 16.10.2017. It is argued that the alleged victim in this case accompanied the petitioner out of her own free will on 16.10.2017. Marriage was solemnized by them on 23.10.2017 and protection was sought from the Superintendent of Police, Bhiwani, on the same date. The petitioner as well as the alleged victim were lodged at the Safe House at Bhiwani for five days. Statement of the victim under section 164 Cr.P.C., was recorded on 26.10.2017 (Annexure P-3), wherein she specifically recorded that

she solemnized marriage with the petitioner on 23.10.2017 in a temple at Gaziabad out of her own free will, without any kind of pressure. She further stated that she wished to proceed to the Safe House at Bhiwani with her husband, the petitioner. It is submitted that the petitioner was thereafter arrested on the next day i.e. 27.10.2017 on the pretext that the alleged victim was less than 18 years i.e. about 17 years and 10 months, her date of birth being 08.01.2000. Learned counsel for the petitioner submits that the prosecutrix has deposed before the learned trial Court on 09.04.2018. In her cross-examination, she specifically admitted her statement under Section 164 Cr.P.C. She further admits that marriage was performed by her with the petitioner and both of them remained at the safe house at Bhiwani. It is pointed out that the alleged victim specifically deposed before the learned Magistrate that she was not under any kind of pressure while recording her statement under Section 164 Cr.P.C. Therefore her allegation in the examination in chief that she was forced to accompany the petitioner is clearly incorrect. The victim herself handed over the marriage certificate to the investigating agency. It is thus prayed that this petition be allowed.

Certified copy of the statement of the victim furnished in Court today is taken on record subject to just exceptions.

Learned counsel for the State is unable to deny that the victim in this case has deposed before the learned trial Court. It is however contended that as the victim was minor, the question of consent or otherwise is irrelevant. Moreover, in her statement before the learned trial Court, the victim stated that she was threatened to accompany the petitioner.

Be that as it may, appreciation of evidence is in the domain of the

learned trial Court. There is no expression of opinion thereon.

Learned counsel for the State, on instructions from ASI Suresh Kumar, verifies that the petitioner aged 22 years, is not involved in any other criminal case. The prosecutrix in this case has since deposed before the learned trial Court.

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 before the Court, if released on bail. Trial in this case is not likely to conclude in the near future. No useful purpose would be served by keeping the petitioner incarcerated any longer in the facts and circumstances of this case.

Keeping in view the facts and circumstances of the case but without commenting upon or expressing any opinion on the merits thereof, this petition filed by Parveen, 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 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.

18.04.2018
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.