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

CRM-M-15466 of 2020

Date of decision: July 01, 2020

Balkar Singh @ Makhan Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Jasvir Singh Dhaliwal, Advocate for the petitioner.

Mr. Harbir Sandhu, AAG Punjab.

MAHABIR SINGH SINDHU, J

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for grant of bail pending trial to the petitioner, in FIR No.60 dated 06.04.2020, under Sections 363, 366, 342, 506, 201 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Bareta, District Mansa.

As per the allegation of the prosecution, FIR in question was registered against the petitioner, on the basis of statement of prosecutrix that on 04.04.2020, at about 11:00 P.M., petitioner took her away on his bicycle by alluring to perform marriage.

Contends that the petitioner is in custody since 06.04.2020 and after investigation in the matter, challan has already been presented on 26.06.2020. Also contends that the prosecutrix submitted her affidavit dated 20.04.2020 (P-1) to the police revealing that on the intervening night of 04/05.04.2020, at 11:00 P.M., due to anger, she left parental house without telling her family members and went to her grand-mother, namely,

Surjit Kaur, who is residing separately. She further stated in her affidavit that person, namely, Makhan Singh alias Balkar Singh son of Gurjant Singh always used to come and stand in front of her house, therefore, to desist him, her parents got her statement recorded and registered the FIR. Also contends that there is no other criminal case pending against the petitioner.

The above factual position is duly acknowledged by the learned State counsel, on instructions from police official.

Heard both sides and perused the paper-book.

Since prosecutrix who is more than 18 years of age, has submitted her affidavit dated 20.04.2020 (P-1) completely exonerating the petitioner and para Nos.2 to 4 are extracted as under:-

“2. That on intervening night of 04/05.04.2020 at about 11:00 PM, due to anger, I left my house without telling my mother, father or any family member and went to my grandmother namely Surjit Kaur's house who is residing separately from us and that time she was not present at home.

3. That my family wants to study me further but I do not want to study and they always pressurize me. Therefore, due to displeased and anger I went to my grandmother's house and when my parents know about my whereabouts they got back me to home.

4. That a person namely Makhan Singh @ Balkar Singh son of Gurjant Singh resident of our village Sanghreri always came and stood in front of my house, therefore, to remove him, my parents got me in police station and on my statement an FIR No.60 dated 06.04.2020 under Sections 363, 366, 342, 506 IPC has been registered at Police Station Bareta against above Makhan Singh @ Balkar Singh. Genuinely, that day I alone went from my house. There is no fault of Makhan Singh @ Balkar Singh son of Gurjant Singh and he is innocent and neither has he had any relation with me in past nor in

present.”

In view of the contents of the affidavit extracted hereinabove, *prima-facie*, complicity of the petitioner becomes doubtful, at this stage, therefore, his further incarceration would not serve any purpose. Consequently, without commenting upon the legality and validity of the abovesaid affidavit, this Court deems it appropriate to release the petitioner on bail forthwith.

In view of the above, this petition is allowed. Petitioner is ordered to be released on bail, in this case, on his furnishing adequate bail bonds and surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.

The above observations may not be construed as an expression of opinion on the merits of the case.

The petitioner shall fully co-operate with learned trial Court without seeking any unnecessary adjournments.

(MAHABIR SINGH SINDHU)
JUDGE

July 01, 2020

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No