

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(206)

CRM No. M-15578 of 2020
Date of Decision : 01.07.2020

Gurpreet Singh @ Gopi

....Petitioner

Versus

State of Punjab

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Manpreet Singh Dua, Advocate for the petitioner.

Mr. Joginder Pal Singh Ratra, Deputy Advocate General,
Punjab.
(keeping in view the advance copy given)

Mr. Akashdeep Sethi, Advocate for the complainant.

Harsimran Singh Sethi, J. (Oral)

The petition has been taken for hearing through video conference due to Covid-19 pandemic.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in FIR No. 21 dated 04.03.2020, under Sections 363, 366-A, 376 IPC and (Section 6 of POCSO Act, 2012 added later on), registered at Police Station Khuian Sarwar, District Fazilka.

Learned counsel for the petitioner states that petitioner married the daughter of the complainant, namely, Reshma on 05.03.2020. After the said marriage, petitioner and the daughter of the complainant, namely, Reshma approached this Court for the grant of protection as the marriage was solemnized against the wishes of the complainant, which petition was

disposed of by this Court on 06.03.2020 (Annexure P-3). Learned counsel for the petitioner further submits that the daughter of the complainant, namely, Reshma got her statement recorded under Section 164 Cr.P.C., wherein, she stated that she had married the petitioner as per her sweet will and she wanted to live with the petitioner. Being minor at that time, she was sent to Nari Niketan as the petitioner was arrested in connection with the said FIR on 09.03.2020. Learned counsel for the petitioner argues that marriage of the petitioner with the daughter of the complainant was performed on 05.03.2020 and the marriage was not void even if daughter of complainant was minor but was only voidable and the marriage was consummated thereafter and hence, prima-facie, petitioner has been roped in the said FIR only due to the marriage of the petitioner with the daughter of the complainant as complainant was against the said matrimonial alliance.

Learned State counsel, who appears through video conference, filed the custody certificate, which is taken on record and submits that the marriage of the daughter of the complainant, namely, Reshma and the petitioner is not disputed. He also admits that the complainant's daughter had given a statement under Section 164 Cr.P.C., wherein, she admitted that she voluntarily married petitioner and she wanted to live with the petitioner only. Learned counsel for the State states that challan has already been presented.

Learned counsel for the complainant, who also appears through video conference, submits that as the daughter of the complainant was minor, her consent was obtained with coercion and she was forced to marry the petitioner. Learned counsel for the complainant further submits that

coercion, the same is of no consequence as she was minor and, therefore, petitioner is not entitled for the grant of bail as being prayed in the present petition.

I have heard learned counsel for the parties and have gone through the record very carefully.

Keeping in view the facts noticed above, as the challan has already been presented, no useful purpose will be served by keeping in the petitioner, who is a young boy, behind the bars, especially in present scenario of Covid-19 pandemic as the trial is likely to take some time. With regard to the consent of the daughter of the complainant in marrying the petitioner is concerned, the same is a matter of evidence, which will come during the trial. Further, neither the State counsel nor the counsel for the complainant has been able to place on record anything to controvert the claim of the petitioner that the marriage was consummated after the marriage ceremony and there was no fraud played. Petitioner has made out a case for the grant of regular bail keeping in view the facts noticed above.

Without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of trial Court/Duty Magistrate concerned.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

July 01, 2020
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? *Yes/No*
Whether reportable? *Yes/No*