

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-17039-2020 (O&M)
Date of decision: 16.07.2020

Gautam Singh @ Chand

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sube S. Kaushik, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.003 dated 11.08.2018 under Sections 363 & 366A IPC and Section 6 of POCSO Act, registered at Police Station Palla, District Faridabad.

Learned counsel for the petitioner submits that the FIR was registered at the instance of Nagina Sharma with the allegations that his daughter 'K' is minor and the petitioner has allured her with intention to marry and she has left the house. It is further submitted that in fact, the petitioner got married with the prosecutrix on 09.08.2018 and out of this wedlock, a son was born on 06.06.2019, who is now aged about 01 year and throughout the period, the prosecutrix and the petitioner was happily residing and the petitioner was arrested on 17.03.2020 i.e. after a delay of 07 months of registration of the FIR. It is also submitted that the police recorded statement of petitioner's

wife/prosecutrix on 16.03.2020, wherein she has stated that she along with the petitioner and their son Nikhil are residing as she has performed marriage with the petitioner. The prosecutrix has further stated that she do not want to take any action against petitioner Gautam Singh @ Chand.

Learned counsel for the petitioner has further argued that when the prosecutrix was taken for her medico-legal examination, she herself refused to get medico-legally examined and DNA test, as she is legally wedded wife of the petitioner. Thereafter, on 17.03.2020, even statement of the prosecutrix was recorded by Judicial Magistrate 1st Class, Faridabad, wherein she has taken a stand that she has performed marriage with the petitioner and want to live with her husband/petitioner. It is next argued that she was even counselled by the Child Welfare Committee, where again she stated on 18.03.2020 that she is living happily with petitioner Gautam Singh @ Chand. It is also submitted that till date, in spite of arrest of the petitioner in the present FIR, she is residing at house of the petitioner and has not gone back to house of the complainant/her father. It is thus submitted that it is a matter of trial about ascertaining the age of the prosecutrix and therefore, the petitioner is entitled to bail in view of the fact that the prosecutrix and the petitioner are husband and wife and are living happily.

Learned State counsel has opposed the prayer for bail on the ground that as per the statement made by the complainant, the prosecutrix was about 14 years and 08 months and therefore, the petitioner is not entitled to bail, however, it is submitted that challan has been presented and the case is now fixed for prosecution evidence.

Without commenting anything on merits of the case, considering

the facts and circumstances of the case and also in view of the successive statements made by the prosecutrix that she has married the petitioner and out of this wedlock, a son is born, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

16.07.2020
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No