

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

207

CRM-M No.23649 of 2020

Date of Decision: October 6th, 2020

Gurpreet Singh @ Gopi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. J.S. Jaidka, Advocate
for the petitioner.

Mr. A.S. Sandhu, Additional Advocate General, Punjab.

(PROCEEDINGS THROUGH V.C.)

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court for grant of regular bail in FIR No.214 dated 01.07.2020 registered under Sections 363, 366, 366-A IPC and Section 4 of POCSO Act, 2012 (Section 376 IPC added later on) at Police Station Haibowal, District Ludhiana.

It is the contention of learned counsel for the petitioner that there was love affair between the petitioner and the victim and it is in furtherance thereto that they had decided to get married. In pursuance thereto, they had approached the learned District and Sessions Judge, Ludhiana, with a petition for protection and safeguard of their life and liberty by providing police help in the light of the threat, which they were apprehending. Along with the said petition, photographs were attached with regard to the marriage as also the affidavits were sworn, where the age of the victim was shown as 19 years and that of the petitioner as 21 years. Both the petitioner as well as the victim appeared in person before the Court i.e. Additional Sessions Judge-I, Jalandhar, on 01.07.2020, when the said Court proceeded to pass the order, copy whereof has been appended as Annexure P-4. He, on this basis, asserts that the allegations as made out in the FIR and in the statement under Section 164 Cr.P.C. given by the victim as recorded, are totally contrary to the factual

position. The said statement as come into force because of the fact that the victim was under the influence of her parents when the said statement was got recorded. Assertion has been made that the petitioner was arrested on 02.07.2020 and is in custody since then. The trial is not likely to conclude in near future because of the prevailing pandemic, where the Courts are not functioning in normal course and only restricted working is being carried out. Prayer has thus been made for the grant of bail.

On the other hand, learned counsel for the State has opposed the bail application by asserting that the victim was minor at the time, when the incident had taken place. She was only 16 years and 3 months. Her statement has been recorded under Section 164 Cr.P.C., wherein she has been very categorical and clear with regard to the petitioner along with others having forcibly taken her under threat and duress and then getting her married in a Gurdwara with him. Some intoxicant was served to her and it is thereafter that the physical relations were initially established. He continued to have such physical relations subsequently also under threat two days till her recovery. The petitioner, therefore, does not deserve the concession of bail.

I have considered the submissions made by the counsel for the parties and with their assistance, have gone through the records of the case.

As per the facts, which have been culled out, it appears that the victim is a minor. The fact that the petitioner and the victim had appeared in person before the Additional Sessions Judge-I, Ludhiana, on 01.07.2020, in the petition, which had been preferred for protection of their life and liberty after they had performed marriage, is not disputed. The question of there being any threat or undue influence upon the victim, thus, appears to be not acceptable and there appears to be a love affair between the petitioner and the victim.

The question with regard to the relationship between the petitioner and the

victim is a question of evidence to be decided at the stage of trial. Petitioner, who is 21 years of age, is in custody for the last more than three months. Even the charge has not been framed because of the prevailing pandemic, where the Courts are working in a restricted mode. The trial is not likely to conclude in near future and the continuation of the petitioner in custody would not serve any useful purpose.

In view of the above, the present petition is allowed.

Petitioner is directed to be released on bail to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, Ludhiana.

Any observations made hereinabove are for the purpose of disposal of the present petition alone and shall have no bearing on the merit of the case during the trial in any manner.

October 6th, 2020
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No