

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-29901-2020 (O&M)
Date of Decision: 18.12.2020

Shashikant
Versus

....Petitioner

State of Haryana
.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Munish Mittal, Advocate,
for the petitioner.

Mr. Naveen Sheoran, D.A.G., Haryana,
for the respondent.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

CRM-29129-2020

For the reasons stated in the application, the same is allowed and
the accompanying Annexure P-5 is taken on record.

Application stands disposed of.

CRM-M-29901-2020

The present petition has been filed under Section 439 of the Code
of Criminal Procedure for grant of regular bail in FIR No.90 dated 20.06.2020,
under Section 6 of the POSCO Act and under Sections 363 and 366-A of the
Indian Penal Code, registered at Police Station Sector 65, District Gurugram.

The learned counsel for the petitioner has submitted that the
petitioner was falsely implicated in the present case on the false complaint
registered by the brother of the prosecutrix. He has further submitted that in
fact the prosecutrix had married with the petitioner amicably and voluntarily

and there was no occasion for lodging of the present FIR. He has referred to Annexure P-2, which is a marriage certificate of the petitioner and the prosecutrix and photographs annexed as Annexure P-3. He has also referred to Annexure P-4, which is the statement of the prosecutrix recorded under Section 164 Cr.P.C. before the learned Judicial Magistrate, in which she has stated that she want to live with the petitioner, namely, Shashikant (although Annexure P-4 was wrongly translated but its vernacular has been perused). The learned counsel has further submitted that the prosecutrix was above the age of 18 years and her date of birth was 05.07.2001 at the time of marriage and the police after investigating the same has come to the conclusion that the girl was above the age of 18 years and therefore, the police has filed supplementary challan by dropping the provisions of POCSO Act. He has further submitted that the investigation in the present case is complete and the challan stands presented and the petitioner is in custody since 27.06.2020 and since the petitioner and the prosecutrix already married and the statement has already been given by the prosecutrix in this regard and that she wishes to live with the petitioner, no useful purpose would be served in case the petitioner be kept in custody. He has further submitted that it is not the case of prosecution that in case the petitioner is released on bail, he may influence any of the witness particularly in view of the fact that the FIR was lodged on misconceived notion and has prayed for the grant of regular bail.

On the other hand, the learned State counsel has submitted that it is correct that the investigation in the present case is already complete and the challan stands presented and even the supplementary challan has been presented by dropping the provision of POCSO Act. He has not disputed the

custody of the petitioner. However, he has submitted that the remaining provisions of Sections 363 and 366-A of the IPC stand as such and therefore, has opposed the grant of bail.

I have heard learned counsel for the parties.

The fact are that the investigation is already complete and the challan stands presented is not disputed and it is also not in dispute that the prosecutrix was major at the time of marriage and that she had made statement under Section 164 Cr.P.C. before the learned Judicial Magistrate that she wants to live with the petitioner. The provisions of POCSO Act has been dropped by the police by presenting the supplementary challan. The petitioner is in custody since 27.06.2020 and therefore, in the considered opinion of this Court, no useful purpose would be served in the facts and circumstances of the case to deny the bail to the petitioner.

In view of the above, the present petition is allowed. The petitioner shall be released on regular bail on his furnishing bail/surety bonds, subject to the satisfaction of the learned trial Court/Duty Magistrate.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

18.12.2020

adhikari

Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No