

226

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.35054 of 2020 (O&M)

Decided on: 15.12.2020

Farhim Khan

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Ravi Kamal Gupta, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

Mr. Pratham Sethi, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.52 dated 21.02.2020, for offence punishable under Sections 363, 366 of the Indian Penal Code, 1860 (in short 'IPC') and 6 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Dhauj, District Faridabad.

Counsel for the petitioner has argued that the complainant in the FIR has requested for taking action against 10 persons including the petitioner with the allegations that they have solemnized the marriage of her daughter ('A' name not disclosed). It is further stated in the FIR that the petitioner, who is residing in the adjoining house of the victim was following her and the family was trying to made her understand to get married. On 02.02.2020, all the aforesaid 10 persons

CASE HEARD THROUGH VIDEO CONFERENCING

named in the FIR took away Anjum forcibly and later on, they have filed some protection petition in the Court by fabricating the date of birth record.

Counsel for the petitioner has also submitted that the petitioner is in custody since 01.03.2020 and the petitioner as well as the victim has filed a protection petition before the District & Sessions Judge, Faridabad, in which it is stated that a *Nikaah* was performed between them on 03.02.2020. Later on, the said petition was withdrawn vide order dated 10.02.2020 as an objection was raised by the complainant side that the girl is minor. It is also submitted that after registration of the FIR, the statement of the victim was recorded under Section 164 Cr.P.C. on 01.03.2020 before the Illaqa Magistrate in which she has stated that she was in love with a boy named Farhim Khan i.e. the petitioner and on 03.02.2020, she got married with him of her own will and her family members are saying that they will get herself married to him so she wants to go back with her family members. It is further submitted that a similar statement was made by the victim before the Child Welfare Counsellor.

Counsel for the petitioner has also submitted that now the investigation is complete, challan stands presented and as per the ossification test report, the age of the petitioner is between 18-20 years and therefore, the petitioner, at this stage is entitled to benefit of regular bail.

Counsel for the State assisted by counsel for the complainant has however opposed the prayer for bail on the ground that as per the allegations, the petitioner and his family members have

CASE HEARD THROUGH VIDEO CONFERENCING

kidnapped the daughter of the complainant and have extended threats.

Counsel for the complainant has additionally argued that recently a habeas corpus petition was filed before this Court in which the victim has made a statement that she wants to stay with her parents.

Without commenting anything on merits of the case, considering ossification test report as well as the statement recorded under Section 164 Cr.P.C. made by the victim at the first instance; challan stands presented; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

15.12.2020

yakub

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No