

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

CRM-M-34070-2019 (O&M)

Date of decision : 31.07.2020

Gursewak Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Piyush Sharma, Advocate for the petitioner.

Mr. Hitten Nehra, Addl. A.G. Punjab.

ANIL KSHETARPAL, J. (ORAL)

CRM-17846-2020

Application is allowed.

The date of hearing in the main case is preponed to today.

The main case is taken on Board today itself.

Main case

The petitioner prays for regular bail pending trial in a criminal case arising from FIR No.110 dated 02.09.2018 registered under Sections 363, 366-A of the Indian Penal Code, 1860, (later on, offences under Section 376 of IPC and Section 3, 4 of the Protection of Children from Sexual Offences Act, 2012, were also added) at Police Station Ghall Khurd, District Ferozepur.

In brief, the case of the prosecution has been noticed by the learned Sessions Judge, Ferozepur in order dated 01.02.2019, which is extracted as under:-

“2. The present case has been registered on the statement of Gurpreet Singh complainant wherein it is alleged that his daughter/ prosecutrix (identity withheld) is aged about 16 years and has studied upto 8th Class. On 27.08.2018 complainant and his family members had gone to sleep after taking meal and in the morning at about 6.00 a.m. he found that his daughter was not in the house and later on they came to know that Gursewak Singh has kidnapped his daughter with an intention to solemnize marriage with her. His daughter has also taken four gold rings and Rs.30,000/- with her at that time. During her statement under Section 164 Cr.P.C prosecutrix has stated that Gursewak Singh has kidnapped her from her house and took her to Gurdwara where Tejinder Singh was present from where Tejinder Singh and Gursewak Singh took her on a motor cycle to Railway station Ferozepur. Gursewak Singh took her with him in the train whereas Tejinder Singh went back. She also stated that she and Gursewak Singh remained at Nakodar and other different places where Gursewak Singh committed rape upon her forcibly. She also stated that from Nakodar she was taken to Dera by Gursewak Singh, his sister Harpreet Kaur and Chan Singh and one Gagi, brother of Gursewak Singh. Harpreet Kaur was earlier knowing about the matter.”

Learned counsel for the petitioner has submitted that the petitioner and the prosecutrix have solemnized marriage on 17.09.2018.

She also filed a petition alongwith the petitioner for grant of protection to

their life and liberty. On 18.09.2018, learned Sessions Judge, recorded a joint statement of the petitioner and the prosecutrix, which is extracted as under:-

“Joint statement of Usha Rani aged 16 years 3 months wife of Gursewak Singh daughter of Gurpreet Singh petitioner No.1 and Gursewak Singh aged 24 years son of Baldev Singh son of Malla Singh, both residents of Village Ratta Khera Punjab Singh Wala, Tehsil and District Ferozepur. Petitioner no.2. On SA with counsel.

We have solemnized our marriage on 17.09.2018 at our house against the wishes of respondents No.4 to 6 who are relatives of petitioner No.1. Affidavit of petitioner No.2 is annexure A1 in this regard. The age of petitioner no.1 is 16 years and 3 months and age of petitioner No.2 is about 24 years. The photo copy of Adhar Card of petitioner No.1 showing her year of birth as 2002 is Annexure A2 and photo stat copy of her birth certificate showing her date of birth as 09.07.2002 is Annexure A3. The copy of Adhar card of petitioner No.2 showing his year of birth as 1994 is Annexure A4. This is our first marriage. Petitioner No.1 is living with petitioner No.2 at Ratta Khera Punjab Singh Wala, Tehsil and District Ferozepur without any pressure, coercion or influence. We are getting threats from respondents No.4 to 6. Now we do not want interference of any person in our marital life. Hence, present protection petition is being filed and necessary protection may be provided to us. However, we do not want to stay in the Protection Centre, Ferozepur.”

Learned counsel further submits that the petitioner is in custody since 02.10.2018.

Keeping in view the aforesaid facts, this Court is of the considered view that further incarceration of the petitioner at this stage, would not be appropriate. The conclusion of the trial is likely to take time. Prima facie, there is a joint statement of the petitioner and the prosecutrix that they have solemnized marriage on 17.09.2018.

Without commenting on the merits of the case and keeping in view the aforesaid facts, the petitioner is directed to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

Accordingly, the present petition is allowed.

31.07.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No