

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

CRM-M-36318 of 2020.

Decided on:- November 11, 2020.

Gagandeep Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Arshdeep Singh Brar, Advocate
for the petitioner.

Mr. Mehardeep Singh, Addl. A.G., Punjab.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

The petitioner has filed present petition under Section 439 Cr.P.C. seeking regular bail in FIR No.116 dated 12.07.2020 under Sections 363 and 366-A IPC (offence under Sections 376 IPC and Section 4 of the POCSO Act, 2012 were added later on) registered at Police Station Nihal Singh Wala, District Moga.

Learned counsel for the petitioner has submitted that the marriage between the petitioner and the prosecutrix was solemnised on 29.06.2020 vide certificate (Annexure P-3). Since the petitioner and prosecutrix were apprehending threat to their life and liberty at the hands of the parents of the prosecutrix, they approached the Court of Session, Fatehgarh Sahib. Vide order dated 02.07.2020, learned Sessions Judge,

Fatehgarh Sahib had extended protection to the life and liberty of the petitioner and prosecutrix and directed the SSP, Fatehgarh Sahib/SHO P.S. Fatehgarh Sahib to enquire the allegations of threat levelled by the petitioner.

He further submits that even the prosecutrix has furnished an affidavit (Annexure P-2), wherein she has projected her date of birth as 28.06.2001 i.e. 19 years old. The call recording and video recording (Annexure P-5) is between the prosecutrix and one of her relative, who projected as mediator in the case. The petitioner is in custody since 15.07.2020.

Learned State counsel does not dispute the custody. However, he submits that the prosecutrix is minor, her date of birth being 15.09.2004 and, therefore, her affidavit or video recording is of no relevance. In her statement under Section 164 Cr.PC recorded on 16.07.2020, the prosecutrix has stated that the petitioner was having the call recording and on this pretext, he kept on blackmailing her and her signatures were obtained by the petitioner on blank papers.

I have heard learned counsel for the parties.

The petitioner is in custody since 15.07.2020. For having solemnised marriage, the petitioner and prosecutrix had sought protection of their life and liberty in the Court of learned Sessions Judge, Fatehgarh Sahib and while granting protection vide order dated 02.07.2020, learned Sessions Judge had recorded their presence in Court. In this manner, culpability of the petitioner is yet to be established during the trial, which is not likely to be concluded in near future. Therefore, this Court finds that the petitioner deserves to be admitted on bail.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing adequate bail and surety bonds to the satisfaction of learned trial Court/Duty Magistrate.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case without being influenced with these observations in any manner.

November 11, 2020
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No