

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

CRM-M-38145-2020
Date of decision: 24.11.2020

Kamlesh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present: Mr. Jaideep Verma, Advocate for the petitioner.
Mr. Sidakmeet Sandhu, AAG, Punjab.
Mr. Himanshu Chhabra, Advocate, for respondents No.2 & 3.
*(The aforesaid presence is being recorded through video conferencing
since the proceedings are being conducted in virtual court.)*

ARUN PALLI, J. (Oral)

Petitioner prays for a regular bail under Section 439 of Cr.P.C.
in FIR No.0194, dated 25.08.2019, under Sections 363, 366-A and 376 IPC,
and Sections 4 & 6 of POCSO Act, registered at Police Station Sahnewal,
Police Commissionerate, Ludhiana.

As per the prosecution version, on 25.08.2019, Reshma
(complainant), mother of the prosecutrix, got her statement recorded with
the police that of her four daughters three were married. Whereas, the
youngest i.e. prosecutrix, aged about 15 years, whose date of birth is
03.06.2003, had gone somewhere on 21.08.2019 at about 8:30 am, without
disclosing anything and had taken her mobile phone along. The complainant
searched for her daughter/prosecutrix and subsequently it transpired that the

petitioner accused had enticed her daughter away on the pretext of marrying her.

Learned counsel for the petitioner submits that to begin with and about two years ago, the petitioner – Kamlesh and Aman @ Amandeep Kaur (respondent No.3) shared a friendly relationship. But soon thereafter they fell in love and decided to marry each other. Respondent No.2 (Reshma) was against their relationship, for the petitioner belonged to a different caste. But on 21.08.2019, the prosecutrix left her home and joined the petitioner. Whereafter they married on 28.08.2019 and even got their marriage registered. Marriage certificate as also the certificate of registration of marriage are appended with the petition as Annexures P-2 & P-3. For the date of birth of the petitioner is 30.06.1998, and respondent No.3 was born on 18.04.1998, both the petitioners were 21 years old at the time of marriage. Although in the FIR, respondent No.2 had asserted, for the prosecutrix was minor being 15 years of age. However, nothing is brought on record to show that respondent No.3 was born on 03.06.2003. Not just that, ossification report dated 16.07.2020 (Annexure P-5) of the prosecutrix reveals that her age was about 20 years. And post marriage the couple started residing at village Gutma (Karha), P.S. Ranipur, District Mau (Uttar Pradesh) and a female child, namely, Neha was born to them on 03.07.2020. Unfortunately, on the same day the police party raided the house of the couple and the petitioner was taken in custody. It is urged that even respondent No.2 soon after the marriage of the petitioner and respondent No.3 accepted their relationship and informed the police that she did not want to pursue the matter. Not just that, in the given circumstances, the

parties have formally compromised the matter and a settlement/compromise dated 12.11.2020 has been reduced in writing:

“1. That Party No.2 Reshma mother of Aman @ Amandeep Kaur has accepted the marriage of Party No.1 & Aman @ Amandeep Kaur which was solemnized on 28.08.2019 at Arya Samaj Mandir, Shiv Katra, Lal Bangla, Kanpur (U.P.) as per Hindu Rites & Ceremonies.

2. That the Party No. 1 & Aman @ Amandeep Kaur are legally husband & wife. The Party No. 2 Aman @ Amandeep Kaur wants to reside with Party No.1 as wife.

3. That after considering the young age of the parties, future of their child & for the betterment & harmony of both families, Party No.2 has no objection in case criminal proceedings in an FIR No.0194 dated 25.08.2019, under Section 363, 366-A & 376 IPC & Sections 4 & 6 of POCSO Act, police station Sahnewal, Police Commissionerate, Ludhiana Punjab would be quashed & Party No.1 shall released on bail. Because, no useful purpose will be served to continue it, rather it will create more friction & disturbance in the future life of couple. It is decided that criminal proceedings shall be quashed against the Party No.1 & for that purpose the Party No.2 will give every possible help by give statements before any competent court of jurisdiction in order to quash the said FIR & release the Party No. 1 on bail.”

Accordingly, the parties have even moved a petition under Section 482 of the Criminal Procedure Code seeking quashing of the FIR in question on the basis of the compromise.

Notice of motion.

Mr. Sidakmeet Sandhu, learned Assistant Advocate General appearing for the State of Punjab, accepts notice on behalf of the respondent-State and Mr. Himanshu Chhabra, Advocate accepts on behalf of respondents No.2 & 3.

The factual position, as set out above, is not disputed by the learned counsel for the respondents.

In the wake of the above, the petition is allowed and the petitioner is ordered to be enlarged on bail subject to furnishing adequate bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

Needless to assert that this order or any observation made hereinabove shall not constitute any expression of opinion on the merits of the case.

24.11.2020
Rajan

(Arun Palli)
Judge

Whether speaking / reasoned:	YES
Whether Reportable:	NO