

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(through video conferencing)**

CRM-M-8800-2021 (O&M)
Decided on : 01.10.2021

Ranjeet Thakur

..... Petitioner

Versus

State of UT, Chandigarh

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Barun Jaswal, Advocate
for the petitioner.

Mr. Avinash Kumar, Advocate for
Mr. Kuldip Tiwari, APP, UT, Chandigarh.

Manjari Nehru Kaul, J.(Oral)

Instant petition has been filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.31 dated 18.02.2020 under Section 376(3) IPC and Sections 4 and 6 of Child Marriage Act and Section 6 of POCSO Act (Sections 498-A, 354-A IPC and Section 8 of POCSO Act added later on and Sections 4 and 6 of Child Marriage Act converted to Sections 9 and 10 of Child Marriage Act) registered at Police Station IT Park, Chandigarh.

Learned counsel for the petitioner inter alia contends that it was an arranged marriage between the petitioner and complainant, which was solemnized in the presence of both their families. He submits that at the time of marriage, the family of the prosecutrix concealed her actual age from them. He further submits that the allegations levelled in the FIR in

question that the prosecutrix was subjected to mental and physical harassment at her matrimonial home and she would be deprived of the basic necessities of life including food are totally fabricated. He still further submits that as far as allegations of rape and sexual assault are concerned, they are belied from the fact that as per the FSL report, the petitioner was not the biological father of the child delivered by the prosecutrix. Hence, a prayer has been made that in the facts and circumstances of the case, the petitioner be extended the concession of bail as he has been in custody since 18.02.2020.

Per contra learned State counsel while opposing the prayer made by learned counsel for the petitioner has invited the attention of this Court to the status report filed by way of affidavit. He has submitted that the prosecutrix at the time of marriage was 14 years and 3 months old girl, who had been married to the petitioner, aged 19 years, against her wishes. She had thereafter been illegally confined in House No.1580 near Atta Chakki Dadu Majra UT, Chandigarh, as a result of which, she approached this Court by way of criminal petition in the nature of habeas corpus. Vide order dated 27.11.2019, she was directed to be produced before this Court and vide order dated 02.12.2019, she was sent to Nari Niketan at Chandigarh. Subsequently, on 13.12.2019, a report from the Child Welfare Committee was submitted before this Court wherein it was recommended that either she be reunited with her family or else she continue staying in the Nari Niketan. Resultantly, this Court directed that the prosecutrix be sent to Aashiana in Sector 15, Chandigarh where she was directed to be placed under the care of Child Welfare Officer along with her new born baby girl.

It was also contended by the State counsel that during investigation it had come to light that while being confined by the petitioner in his house, the prosecutrix was also sexually assaulted by co-accused Nand Kishore. He has vehemently opposed the grant of bail to the petitioner by urging that in case he is released on bail, there is every likelihood that he may abscond and try to inference with witnesses.

Heard learned counsel and perused the material available on record.

A perusal of the FIR in question reveals that there are prima facie serious allegations that the victim aged 14 years was married off with the petitioner forcibly and thereafter subjected to harassment including sexual assault by the petitioner as well as co-accused Nand Kishore. The paternity of the child delivered by the prosecutrix would not be of much consequence at this stage because it is the case of the prosecution that the victim was married to the petitioner and was sexually assaulted by him as well as co-accused Nand Kishore. The prosecution evidence has not yet commenced. Hence, in the facts and circumstances as enumerated hereinabove, this Court does not deem it fit to extend the concession of bail to the petitioner. Accordingly, the present petition stands dismissed. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

01.10.2021
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No