

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

202

CRM-M-18209-2021(O&M)
Date of Decision : May 10, 2021

BABLU KUMAR PANDEY

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JASGURPREET SINGH PURI

Present : Ms. Shivya Sehgal, Advocate
for the petitioner.

Mr. Sidakmeet Sandhu, AAG, Punjab.

Through Video Conferencing

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.298 dated 22.12.2018 under Sections 363, 366-A IPC read with Section 4 of the POCSO Act, Police Station Moti Nagar, Ludhiana.

The learned counsel for the petitioner has submitted that the petitioner is in custody since 29.12.2018 which is approximately two years and four months and out of the seventeen cited witnesses, ten have already been examined including the prosecutrix. Learned counsel has submitted that this is the second bail application and the first bail application was withdrawn on 18.1.2021 in view of the fact that the prosecutrix had not been examined on that date and, therefore, the present successive bail application has been filed on the basis of change of circumstance as the prosecutrix has now been examined as PW6 on

15.3.2021. Learned counsel for the petitioner has further submitted that the prosecutrix has resiled from her earlier statement made under Section 164 Cr.P.C. and has been declared as hostile. She submitted that it is a case where the petitioner has been falsely implicated in the present case because the prosecutrix although is a minor had herself voluntarily gone alongwith the petitioner for marriage and infact the marriage was solemnized between them. Learned counsel further referred to Annexure P-4 which are the photographs wherein the marriage has been solemnized and it was with the consent of the prosecutrix. She has further submitted that the petitioner is not involved in any other case and has no criminal background. She has prayed for the grant of regular bail to the petitioner.

On the other hand, learned State counsel has submitted that it is correct that the petitioner is in custody since 29.12.2018 which is almost two years and four months and out of the total seventeen cited witnesses, ten have already been examined including the prosecutrix. The statement of the prosecutrix has also been attached with the petition as Annexure P-3 in which the prosecutrix has turned hostile. However, he has opposed the regular bail to the petitioner on the ground that the matter was serious in nature and, therefore, has prayed for dismissal of the bail application.

I have heard the learned counsel for the parties.

Admittedly, the petitioner is in custody since 29.12.2018 and out of the seventeen cited witnesses, ten have already been examined including the prosecutrix. Since now the prosecutrix has been examined, the successive bail application would certainly be maintainable in this

regard. The prosecutrix as per her statement Annexure P-3 has turned hostile and it has not been disputed by the learned State counsel that the petitioner is not involved in any other case. Further-more, it is not a case of the State that in case the petitioner is released on bail then he may influence any witness or may tamper with any evidence or may flee from justice.

Therefore, without commenting upon the merits and circumstances of the present case, the present petition is allowed. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate.

(JASGURPREET SINGH PURI)
JUDGE

May 10, 2021
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No