

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18912-2021(O&M)

Date of decision: 07.06.2021

Jatinder @ Jatindra

.....Petitioner

Versus

State of UT, Chandigarh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.S.L.Chander Shekhar, Advocate, for the petitioner

Mr. A.M.Punchhi, Senior Standing counsel for UT, Chd.

ANIL KSHETARPAL, J.

1. This is third petition under Section 439 Cr.P.C for grant of bail pending trial to the petitioner in a criminal case arising from FIR No.172 dated 14.06.2019 registered under Section 376 (3), 376 (2) (N), 376 (2) (I) IPC and Section 6 of the POSCO Act, 2012, at Police Station, Sector 39, Chandigarh.

2. As per the case of the prosecution, the petitioner is maternal uncle's son of the prosecutrix. He used to reside in the same house alongwith the family of the prosecutrix. He made physical relationship with her and consequently, she got pregnant. The matter was detected when she went to the hospital for check up and found carrying 13 weeks pregnancy.

3. The petitioner has sought bail on the ground that there is a compromise between his family and the family of the prosecutrix,

according to which the petitioner has agreed to get married with the prosecutrix on attaining the age of majority. It has further been contended that the petitioner is in custody nearly for a period of two years and when the prosecutrix appeared in the witness box, she did not support the case of the prosecution.

4. At this stage, it is important to note that the family of the prosecutrix got the fetus aborted and when the same was sent to the Central Forensic Science Laboratory, it has been opined that the petitioner was its biological father. Sh. Ashu Punchhi, Sr. Standing counsel for UT, Chandigarh, has filed the reply and submitted that even if the prosecutrix has not supported the case of the prosecution, there is sufficient evidence to convict the petitioner. It has further been pointed out that the intended marriage between the petitioner and the victim would not be a lawful/legal marriage being within the prohibited degree of relationship as per Section 11 of the Hindu Marriage Act, 1955.

5. The petitioner has already suffered incarceration nearly for a period of two years. The prosecution proposes to examine the deposition of 14 witnesses, out of which only 2 witnesses have been examined. The case is now fixed for further prosecution evidence on 29.07.2021. Due to spread of COVID-19 pandemic, the Courts are unable to discharge their function in a normal manner. The completion of the trial is likely to take time.

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

7. Accordingly, the present petition is allowed.

07.06.2021

rekha

Whether speaking/reasoned

Whether Reportable

Yes / No

Yes / No

(ANIL KSHETARPAL)

JUDGE