

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

CRM-M-23356-2021(O&M)

Date of Decision: 13.08.2021

(Heard through VC)

Sandeep Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Balraj Gujjar, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, A.A.G., Haryana.

Mr. Rajat Mor, Advocate for the complainant.

JAISHREE THAKUR, J. (Oral)

This is a petition that has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.50 dated 06.02.2021 registered under Sections 346, 363, 365, 366-A, 376(2) (n), 376(d), 420, 467, 468 and 471 of IPC and Sections 6 and 17 of POCSO Act at Police Station Rai, District Sonapat Haryana.

Learned counsel for the petitioner herein would contend that he has been falsely implicated and is in custody since 11.02.2021. It is submitted that the prosecutrix has got her statement recorded under Section 164 Cr.P.C. before the Judicial Magistrate First Class in which statement, she has categorically stated that she had gone with the petitioner voluntarily and had solemnized the Court marriage. Thereafter,

she refused to go to her parental home on account of the fear of her family members. Thereafter, another statement of the prosecutrix has been recorded in Court during trial wherein she has specifically stated that she herself called the petitioner to Bahalgarh and forced him to take her along with him, otherwise she would die. In the statement, it has also come forth that the marriage was solemnized on 08.02.2021 and it is only, thereafter, the marriage was consummated. Learned counsel for the petitioner while praying for grant of regular bail would contend that the grand-daughter of the complainant had forced the petitioner to take her along with him. It is argued that the offences as made out would not be applicable, since the marriage had been solemnized between the parties. It is also stated that as the material witnesses have been examined, the petitioner would not be in a position to influence them or to hamper the judicial process.

Reply filed on behalf of the respondent-State is taken on record.

Learned counsel for the respondent-State opposes the grant of regular bail but does not dispute the fact that the complainant has stated in her statement that she voluntarily solemnized the marriage with the petitioner.

At this stage, appearance has been caused by counsel on behalf of the complainant, who opposes the grant of regular bail. It is stated that the grand-daughter of the complainant, who is the prosecutrix, was minor on the date of the alleged marriage and even the said marriage was solemnized on the basis of a fake document i.e. Aadhar card. In fact,

the prosecutrix was born in the year 2005 and the petitioner is the person who had forged the Aadhar card and amends her date of birth as 2002, so as to show her to be a major. It is argued that even though the prosecutrix had summoned the petitioner that would be of no reliance considering that she is a minor.

I have heard learned counsel for the parties and also perused the case file.

Keeping in view the fact that out of 22 witnesses cited only 5 have been examined and the trial is not likely to conclude in the near future, besides the facts as noticed above, without commenting on the merits of the case, the petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail and surety to the satisfaction of trial Court/Duty Magistrate concerned. Any observation made hereinbefore are purely for the purpose of deciding this bail application and shall not be constructed as observation on merits of the case.

13.08.2021
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No