

Manjeet Singh

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Jasdeep Singh, Advocate, for the petitioner.

Mr. B.S. Virk, Deputy Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.142 dated 20.9.2020, under Sections 363, 366-A, 376 IPC, Section 4 of POCSO Act, 2012 and Sections 9 and 10 of Child Marriage Prohibition Act, 2006 registered at Police Station Jakhal, District Fatehabad.

The FIR in question was lodged by the father of the prosecutrix Jagjit Singh. It is alleged that he is doing the work of labour and has two sons and one daughter. His daughter has studied upto 10th class and her date of birth is 27.3.2003. On 18.9.2020, when his daughter was sleeping with her family, the complainant at 5:00 am found that she was not on bed. They searched her but could not find her. When they checked the articles at home, then found that four tolas of gold ornaments Kanthi, earrings and Rs.80,000/- were missing, which has been taken away by his daughter alongwith documents and her clothes. Request was made to search his daughter and take the legal action against the culprit. The investigation commenced and thereafter, on 11.10.2020 the prosecutrix was recovered.

The petitioner was arrested on 12.10.2020 and he approached the learned

Additional Sessions Judge, Fatehabad, for grant of bail, who after hearing the parties, rejected the same vide its order dated 19.3.2021. Aggrieved by the same, the petitioner approached this Court by way of filing the present petition.

Learned counsel for the petitioner vehemently argues that though the prosecutrix is minor, however, she left the house of her own will on 18.9.2020 and she was recovered on 11.10.2020. Thereafter, her statement under Section 164 Cr.P.C was recorded. He has drawn the attention of the Court to this statement, which has been appended as Annexure P-6. A perusal of the same would show that the prosecutrix deposed that her parents had fixed her marriage without her consent at Patran scheduled on 1/2.10.2020, which she never wanted to perform. She went with Manjeet Singh, the petitioner to Sonipat, where they stayed for two days and thereafter, on 21.9.2020, they solemnized Anand Karaz at Gurudwara Sahib at Chandigarh. They stayed in a Hotel at Chandigarh for about 10 days and from where they came back Sonipat. She stated that her marriage was solemnized with her consent and the petitioner never committed any wrong with her. The petitioner was arrested on 12.10.2020. Learned counsel for the petitioner submits that the prosecutrix is technically a minor as she was just below the age of 18 years, however, she went with the petitioner of her own free will without any coercion and they performed the marriage also. Subsequently, they approached this Court by way of filing CRWP-6518-2020 for seeking protection, which was granted by this Court vide order dated 28.8.2020. He submits that the bail was rejected by the Additional Sessions Judge merely on the hyper technical ground that the

prosecutrix is minor and the offence being heinous one, there is every likelihood of tampering with the evidence. He fairly submits that the prosecutrix has been examined and though she has supported the case of the prosecution, but the same is under pressure of her parents. He submits that in all there are four accused and rest three accused are already on bail. He submits that even otherwise as the prosecutrix stands examined there cannot be any apprehension whatsoever on the part of the petitioner to influence the witnesses and scuttle the ongoing trial. He has submitted that the petitioner is behind bars from the last about one year and he deserves the concession of bail.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner. He submits that there are specific allegations against the petitioner, which has been substantiated by the ocular as well as the medical evidence produced on record. However, he fairly submits that out of 23 prosecution witnesses, 11 witnesses including the prosecutrix have already been examined. In nut shell , he prays for dismissal of the bail of the petitioner.

I have heard learned counsel for the parties.

The prosecutrix is less than 18 years of age, however, in view of the birth certificate, she is almost 17 years of age. The facts on the record would show that both the petitioner and the prosecutrix after having eloped from home remained at a number of places and performed the marriage as well. They approached this Court for grant of protection as well. Without commenting on the merits of the case, in the overall facts and circumstances of the case, I find that the learned counsel for the petitioner has been able to

make out a case for grant of regular bail to the petitioner. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

11.11.2021
sharmila

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No