

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

(Proceedings through Video Conferencing)

**CRM-M-40122-2021
Date of Decision : 04.10.2021**

Yogender

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Arun Sharma, Advocate
for the petitioner.

Mr. Zorawar Singh Chauhan, DAG, Haryana.

Mr. Kulbir Dalal, Advocate
for the complainant.

MANJARI NEHRU KAUL (Oral)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.420 dated 04.11.2020, registered under Sections 363, 366, 420, 468, 471 and 120-B IPC and Section 6 of the POCSO Act, 2012, at Police Station Badshapur, Gurugram.

Learned counsel for the petitioner submits that a false case has been planted upon the petitioner on the allegations that he enticed away the victim aged 17 years on the pretext of solemnizing marriage and thereafter solemnized marriage with her. It has been submitted that false implication of the petitioner in the case in hand finds support from the statement of the victim recorded under Section 164 Cr.P.C. wherein she did not level any

allegation of any wrong doing against the petitioner. Learned counsel for the petitioner has also apprised the Court that the mother of the victim at whose instance the FIR in question was got recorded, also did not support the case of the prosecution. He further submits that rather the mother of the victim while stepping into the witness box as PW1 stated that nobody much less the petitioner had enticed away her daughter on the pretext of solemnizing marriage.

Per contra, learned State counsel while opposing the prayer of the counsel opposite, on instructions from ASI Sonika, has apprised the Court that no doubt, the victim did not level any allegation against the petitioner in her statement recorded under Section 164 Cr.P.C., however, the fact of the matter is that the victim was a minor on the date of alleged occurrence. Learned State counsel has further submitted that the petitioner in collusion with co-accused Manjeet had fabricated a fake certificate wherein the birth year of the victim had been shown as 2002. Learned State counsel has however conceded that the complainant had not supported the case of the prosecution during her deposition before the trial Court.

Learned counsel for the complainant has put in appearance and has also admitted that the complainant did not support the case of the prosecution during her deposition before the trial Court.

I have heard learned counsel for the parties and perused the material on record.

The petitioner has been in custody since 09.11.2020 and only 01 out of 16 prosecution witnesses cited, has been examined so far. Thus, there is no likelihood of the trial concluding in the near future. In the facts and circumstances, as enumerated hereinabove, the instant petition stands

allowed. The petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. 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.

04.10.2021
mamta

(MANJARI NEHRU KAUL)
JUDGE

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