

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

**1. CRM-M-36028-2020
Date of decision : 16.11.2021**

Somvir Petitioner

Versus

State of Haryana Respondent

2. CRM-M-22565-2021

Mandeep Petitioner

Versus

State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Ms. Suman Bishnoi, Advocate
for the petitioners.

Mr. B.S. Virk, DAG, Haryana.

RAJESH BHARDWAJ, J. (ORAL)

Petitioners have approached this Court praying for grant of regular bail under Section 439 Cr.P.C., in a case bearing FIR No.307 dated 18.07.2020, under Sections 323, 370, 370-A, 342, 376F/376(2)N, 120-B of Indian Penal Code; Sections 9, 10, 11 of Child Marriage Prohibition Act, 2006; Section 6 of POCSO Act; Section 3(2)(v) of SC & ST Act and Section 81 of Juvenile Justice Act, at Police Station City Tohana, District Fatehabad.

As per the factual matrix of the case, the present FIR is registered at the instance of the complainant/prosecutrix (name withheld) in which it is stated that petitioner-Somvir and the prosecutrix were in love affair with each other. The petitioner purchased a screen touch mobile phone for the prosecutrix and they started talking to each other. Thereafter, the prosecutrix

went to Delhi with the petitioner out of her own free will and they stayed in a hotel there. Thereafter, the prosecutrix stayed with the petitioner for six months and came back to Tohana, where the petitioner told her that he will talk to her family members for their marriage. Then the petitioner went to his house, however, the prosecutrix could not go her home as she was afraid and met Daljeet Kaur wife of Pardeep Kumar who brought her to her house and on 21.05.2020, they came to the police station and submitted a complaint against her father. The police sent her back with her father and after two days, she again ran away from home and went to the house of Daljeet Kaur, thereafter she was contacted by the petitioner on mobile phone. On 15.06.2020, with the help of Daljeet Kaur and her husband Pardeep Kumar, marriage of the prosecutrix with the petitioner was performed at Kali Mata Temple at Jakhal. Thereafter, the prosecutrix was taken to her in-laws house by the petitioner and after one month of marriage, a party was hosted and when she was alone, co-accused Mandeep, who is her Devar (brother-in-law) in an inebriated state raped her for three days.

Learned counsel for the petitioners has vehemently contended that the petitioners have been falsely implicated in this FIR. It has been submitted that at the time of marriage, petitioner-Somvir was informed by Daljit Kaur that the prosecutrix is a major girl and her Aadhar Card was also shown to him by Daljit Kaur. The allegations of rape levelled against Mandeep are also false and baseless. It is submitted that the FIR has been registered on the basis of the concocted story made by the complainant under the influence of Daljit Kaur wife of Pardeep Kumar, who cheats the innocent illiterate persons. Moreover, the prosecutrix has not supported the case of the prosecution. Learned counsel for the petitioners has further stated that out of

total 8 accused, 5 accused have already been allowed bail.

Learned State counsel has opposed the prayer for bail of the petitioners but endorsed that the prosecutrix has not supported the case of the prosecution. He submits that out of total 22 prosecution witnesses, 10 witnesses have been examined and the trial is progressing.

I have heard learned counsel for the parties and perused the records.

Petitioner-Somvir is behind the bars since 24th July, 2020 and petitioner-Mandeep is behind the bars since 23rd July, 2020. The veracity of the allegations and the counter-allegations are to be established before the learned trial Court on the basis of the evidence to be produced before it by the parties and this Court would refrain itself from commenting upon the same. The trial of the case will take sufficient time and no useful purpose will be served by keeping the petitioners in custody for such a long time. Keeping in view the abovesaid facts and also the fact that five co-accused have already been granted bail, this Court finds that learned counsel for the petitioners has succeeded in making out a case for grant of regular bail. Accordingly, the present petitions are allowed and the petitioners are ordered to be released on bail on their furnishing bail/surety bonds 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.

16.11.2021
m. sharma

(**RAJESH BHARDWAJ**)
JUDGE

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