

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

212

CRM-M-37799 of 2020
Date of Decision: 24.03.2021

Amandeep Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Akashdeep Batra, Advocate,
for the petitioner.

Mr. J.S. Jaidka, Advocate,
for the complainant.

Mr. Sandeep Singh Deol, DAG, Punjab

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

On 16.12.2020, the following order had been passed by this
court:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

This petition has been filed under the provisions of Section 439 of the Cr.P.C. seeking 'regular bail' for the petitioner in Criminal Complaint Case No. 89/2018, dated 08.10.2018,

instituted before the Judicial Magistrate Ist Class, Moga, for the alleged commission of offences punishable under Sections 376, 366, 323, 354-B, 347 and 506 of the IPC and Sections 25/54/49 of the Arms Act, 1959.

Learned counsel for the petitioner submits that the daughter of the complainant, i.e. respondent no. 2, and one of the brothers of the petitioner, i.e. Sandeep Singh, approached this court by way of CRM-M-24797-2018, which was disposed of by this court on 01.06.2018, vide the order Annexure P-4, recording therein that both, the daughter, i.e. Jasvir Kaur @ Jasveer Kaur, and the brother of the present petitioner (who was petitioner no. 2 in that petition, i.e. Sandeep Singh), had married each other against the wishes of the respondents in that petition (including respondent no. 2 herein, i.e. her father), on 25.09.2018, and as per their Matriculation Examinations certificates issued by the Punjab School Education Board, they both were above the legally marriageable age.

He therefore submits that with the daughter of respondent no.2 and the brother of the petitioner having jointly approached this court and having actually physically appeared before this court to submit their certificates in proof of their age and having stated that they were married to each other, the question of any force exhorted by the petitioner or his brother on the complainants' daughter, does not arise and therefore no criminal offence whatsoever is made out against them far less those as have been alleged to have been committed in the Criminal Complaint filed by respondent no. 2 before the learned Judicial Magistrate Ist Class, Moga (copy Annexure P-1).

Learned counsel appearing for the complainant submits that as a matter of fact the complainants' daughter had been forced into marriage and consequently, the allegations made in the complaint are correct and therefore the petitioner does not

deserve to be admitted to bail.

Learned State counsel of course submits that the State would have nothing to say in the matter, it being a criminal complaint before the competent court with no complaint resulting in an FIR (or otherwise) made to the police.

The allegation against the petitioner is that he being a brother of aforesaid Sandeep Singh, also allegedly committed rape upon the complainants' daughter, but in the aforesaid circumstances, with the daughter having come before this court along with the person whom she claimed was her husband, seeking protection of life and liberty and with counsel for the petitioner submitting that it was the complainant who came and took away his daughter from the lawful custody of her husband and thereafter lodged the complaint case, the petitioner is ordered to be admitted to interim bail upon him furnishing adequate bail bonds and surety bonds to the satisfaction of the trial court, till the next date of hearing before this court, with that court to send a report to this court as regards any evidence recorded so far in the complaint case.

Adjourned to 18.02.2021.”

Thereafter on 18.02.2021, the following order had been passed:-

“Pursuant to the order of this court dated 16.12.2020, a report has been received from the learned JMIC, Moga, dated 17.02.2021, stating to the effect that the accused had been summoned vide an order dated 12.09.2019, with them having appeared on 21.12.2019, and with the case fixed for scrutiny of documents, and with it liable to be committed (to the court of Sessions).

The statement of the alleged victim, as CW5, as recorded before that court on 02.03.2019, has also been annexed with the

report of the learned JMIC.

A request for an adjournment however has been made on behalf of respondent no.2, i.e. the complainant.

Adjourned to 02.03.2021, with it made clear that if counsel for the complainant does not appear on the next date of hearing, the petition would still be disposed of on merits, regardless of his presence.

Interim order to continue till the next date of hearing.”

Today, learned counsel for the complainant reiterates that the petitioner being the brother of the person whom the prosecutrix was forced to get married to under the influence of drugs, and he too having committed rape upon her (as alleged), he does not deserve to be admitted to bail.

Learned counsel for the petitioner on the other hand submits that as even the person with whom the prosecutrix got married (as per the petitioner), i.e. the petitioners' brother Sandeep Singh, and other co-accused, have been admitted to anticipatory bail by this court, there would be no reason to keep the petitioner in custody, with only he having been arrested in the case.

He further reiterates that the petitioners' brother and the prosecutrix having earlier filed CRM-M-24797 of 2018 seeking protection of life and liberty upon having married each other, the story given forth by the prosecution later, is not liable to be believed at all.

Having considered the matter, even though it is seen that as per the report of the learned JMIC, Moga, dated 17.02.2021, the testimony of the prosecutrix does not support the case of the petitioner, yet, keeping in view the entire circumstances, this petition is allowed, with the order passed in favour of the petitioner, admitting him to interim bail, made absolute.

It is however made absolutely clear that, naturally, proceedings in the complaint instituted before the competent court, would continue regardless of any observations made in this petition (by this court), with the conclusion to be reached by the trial court obviously to be based wholly on the evidence led before it by all sides.

March 24, 2021
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes