

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

CRM-M-42237-2020(O&M)

Date of decision : 05.01.2021

Rakesh Kumar aka Kaka

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Raj Kumar Arya, Advocate for
Ms. Sukhveer Kaur, Advocate for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG Punjab.

ALKA SARIN, J. (ORAL)

Heard through video conferencing.

The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.175 dated 29.09.2020 under Sections 363 and 366 of the Indian Penal Code, 1860 registered at Police Station Sadar Pathankot, District Pathankot.

Learned counsel for the petitioner would contend that the petitioner and the Prosecutrix had solemnized their marriage on 10.11.2020 and, thereafter, had approached this Court by filing CRWP No.9503 of 2020. Vide order dated 17.11.2020, the said petition was disposed off with a direction to the Senior Superintendent of Police, Pathankot to decide the representation dated 10.11.2020 made by them in accordance with law. Learned counsel for the petitioner would further

contend that the FIR has been lodged by the father of the Prosecutrix and that the Prosecutrix in her statement recorded under Section 164 of the Code of Criminal Procedure, 1973 has also stated that she had willingly gone with the petitioner and that she had solemnized her marriage with him. It is further the contention of learned counsel for the petitioner that in an application filed under Section 97 of the Code of Criminal Procedure, 1973 by the complainant, the statement of the Prosecutrix was recorded wherein she has stated that she had solemnized her marriage with the petitioner and that she is residing on her own freewill in the house of her in-laws and that she did not apprehend any threat at the hands of her in-laws. She has further stated that she is not willing to live with her parents as they wanted to solemnize her marriage against her wishes.

Learned counsel for the State on instructions from ASI Hem Raj has stated that in the order dated 21.12.2020 passed in an application under Section 97 of the Code of Criminal Procedure, 1973, the Prosecutrix had in fact got her statement recorded that she is living willingly with her in-laws and that she does not apprehend any danger at the hands of her in-laws and further that she did not wish to reside with her parents.

I have heard learned counsel for the parties.

In the present case, the Prosecutrix had willingly gone with the petitioner and had approached this Court by filing CRWP No.9503 of 2020. Vide order dated 17.11.2020, this Court had directed that the

representation made by the petitioner and the Prosecutrix be decided in accordance with law by the Senior Superintendent of Police, Pathankot. However, the police had picked up the Prosecutrix in the course of investigation in the FIR lodged by her father and, thereafter, her statement was recorded before the Duty Magistrate wherein she has categorically stated that she did not want to reside with her parents. The custody of the minor girl was thereafter handed over to her in-laws. At present, the Prosecutrix is residing with her in-laws.

In view of the above and considering the fact that the trial is likely to take some time to conclude especially in view of the prevailing conditions on account of COVID-19 Pandemic, no useful purpose would be served by keeping the petitioner behind the bars any further. Without commenting upon the merits of the case, I deem this to be a fit case for grant of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off.

(ALKA SARIN)
JUDGE

05.01.2021
Yogesh Sharma

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO