

216 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50555-2021

Date of Decision: 07.12.2021

Shiva

... Petitioner

v/s

U.T. Chandigarh

... Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Rahil Mahajan, Advocate for the petitioner.
Mr. Anupam Bansal, Addl. Public Prosecutor, U.T.
Chandigarh.

*(The case has been taken up through video conferencing on
account of Covid-19 pandemic)*

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VIVEK PURI, J. (ORAL)

In pursuance of the advance notice, Mr. Anupam Bansal, Addl.
Public Prosecutor, U.T. Chandigarh has put in appearance on behalf of the
State.

The petitioner has prayed for grant of regular bail in case FIR
No.280 dated 23.10.2021, under Sections 363 & 366 IPC registered at Police
Station Sector 39, Chandigarh.

The case has been registered on the statement of the mother of
the victim alleging that on 23.10.2021 at about 1:00 A.M. the petitioner who is
residing in the neighborhood had kidnapped the victim. Accordingly, the FIR
was registered.

It has been contended by learned counsel for the petitioner that in
the statement of the victim recorded under Section 164 Cr.P.C. it is emerging
that she left the house of her own, no pressure was working upon her mind.
She herself rang the petitioner, called him and solemnized marriage with him
at Haridwar. It is also emerging in the statement that the parents of the victim

had given beatings to her and she was under the bonafide impression that she

has attained the age of 18 years as her father had celebrated her 18th birthday with great pomp and show.

It has been further stated that a compromise has been effected between the parties and the victim was not medically examined.

Learned State counsel, on instructions from SI Somraj, has not disputed the factual aspect but has argued that the offences under Section 363 and 366 are non-compoundable, the date of birth of the victim as mentioned in the birth certificate is 17.09.2004 and the victim had herself refused to get medically examined.

Keeping in view the fact that there is no specific allegation levelled against the petitioner in the statement under Section 164 Cr.P.C., the victim had left the house of her own accord without any pressure at the instance of the petitioner and the controversy with regard to age is to be adjudicated during the course of trial, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner.

Considering the above and the fact that the trial is likely to consume some time, further detention of the petitioner may not be justified. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

07.12.2021
Janki

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No