

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

122+226

**CRM-M-4659-2022 (O&M)
Decided on : 22.03.2022**

Sandeep

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. Vaibhav Sehgal, Advocate
for the petitioner(s).

Ms. Ishneet Kaur, DAG, Punjab.

MANJARI NEHRU KAUL, J. (Oral)

CRM-5312-2022

Application is allowed and Annexure P-9 (copy of statement) filed along with the application is taken on record, subject to all just exceptions.

Main case

This is the second petition filed under Section 439 Cr.P.C. for grant of bail to the petitioner in case FIR No. 211, dated 24.12.2020, under Sections 363, 366-A, 376 IPC and Section 4 of the POCO Act, registered at Police Station Tibba, District Ludhiana (annexed as Annexure P-1).

Earlier petition filed by the petitioner seeking concession of bail under Section 439 Cr.P.C. was dismissed as withdrawn on 23rd August, 2021 (Annexure P-8).

Learned counsel for the petitioner *inter alia* contends that a false and fabricated case has been planted upon him by the father of the victim. Infact, the victim was not a minor, as had been alleged in the FIR,

but an adult of 20 years of age on the date when she allegedly went missing. In support, learned counsel has drawn the attention of this Court to the marriage contract letter of the parties, which has been annexed as Annexure P-2, wherein, the victim had herself stated that she was 20 years old. Learned counsel still further submits that the Aadhar Card of the victim, wherein, her date of birth is shown as 11.10.2006, could not be said to be a sufficient proof of her age, as the victim had conceded during her deposition before the trial Court that she did not remember as to who had accompanied her at the time of preparing the Aadhar Card and had also stated that she had not got her Aadhar Card prepared. He further submits that the victim was not enticed away by the petitioner, as had been alleged, but had accompanied the petitioner of her own accord and thereafter, solemnized marriage with him. Learned counsel further submits that since both the material witnesses i.e. the victim as well as her father i.e. the complainant stand examined before the trial Court, therefore, his further incarceration in the circumstances would not serve any useful purpose, as he has now been in custody since 23rd February, 2021.

In support of his submissions, learned counsel has placed reliance upon the judgment of the Apex Court rendered in **Nishan Singh alias Gurjant Singh vs. State of Haryana, 2019(3) Law Herald 2746** and **Alamelu and another vs. State Rep. By Inspector of Police, 2011, AIR (SC) 715.**

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, submits that the victim reiterated the allegations levelled against the petitioner u/s 164 Cr.P.C. while stepping into the witness-box and supported the case of the prosecution in its entirety. Further submits that even the complainant had

supported the case of the prosecution. She still further submits that the petitioner after putting the minor victim under threat enticed her away to his native village in Uttar Pradesh and solemnized marriage with her.

Learned State counsel still further submits that now that only formal witnesses remain to be examined and hence, the trial would not take much time to conclude.

I have heard learned counsel for the parties and perused the relevant material on record including the deposition of both the material witnesses, which have been annexed with the paper-book.

Prima facie, there are serious and specific allegations levelled against the petitioner in the FIR in question, to the effect that after enticing away the victim, aged 14-15 years, he solemnized marriage with her and also violated her person. The submissions made by the learned counsel qua the victim not being a minor, but an adult would be a matter to be adjudicated upon during trial. This Court, thus, does not deem it a fit case to extend the concession of bail to the petitioner, more so, since the trial is nearing conclusion.

Dismissed. However, anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

March 22, 2022

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*