

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

227

CRM-M-16588 of 2022
Date of decision:25.05.2022

Panchu Gopal Barui

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Rajesh Lamba, Advocate
for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. Abhimanu, Advocate
for respondents No.2 and 3.

SUVIR SEHGAL, J. (Oral)

Instant petition has been filed under Section 439 Cr.P.C seeking grant of regular bail to the petitioner in case FIR No.21 dated 09.01.2018 registered under Sections 363, 366 of Indian Penal Code, 1860, however, Sections 363-A and 366-A IPC, have been deleted later on, at Police Station Gurgaon Sadar, District Gurugram (Annexure P-1).

As per the version of the prosecution, FIR (Annexure P-1) has been lodged on the complaint of a mother of 15 years old girl (for short “the prosecutrix”) on the allegation that her daughter is missing and she had received a phone call from her informing her that she has married Panchu Gopal Barui (present petitioner). The complainant suspected that Panchu

Gopal Barui has enticed her on the pretext of marriage.

Counsel for the petitioner contends that although the petitioner was declared as Proclaimed Offender, vide order dated 24.07.2019, but he was never served. It is his arguments that the provisions of Section 82 of Cr.P.C., have not been complied with. He contends that prosecutrix has married the petitioner and she has given birth to a child. He submits that in her statement recorded under Section 164 Cr.P.C., the prosecutrix has admitted the factum of marriage, has stated that she has attained the age of majority and that she went with the petitioner of her own free will. Counsel further submits that dispute between the parties has been settled and a separate petition (CRM-M-17481 of 2022) has been filed seeking quashing of FIR on the basis of compromise. Counsel asserts that the petitioner, who is in custody since 02.03.2022 deserves to be enlarged on bail as challan has been presented and he is no longer required for custodial interrogation.

Per contra, upon instructions from ASI Raju, State counsel has opposed the petition on the ground that the petitioner is accused of alluring a minor girl on the pretext of marriage. However, she could not dispute the fact that the petitioner has married the prosecutrix and they were living together.

Counsel representing complainant-respondent No.2 and prosecutrix respondent No.3 has supported the petition.

Having considered the submissions made by counsel for the parties, this Court is *prima facie* of the view that complicity of the petitioner in the offence would be subject matter of the trial and the petitioner would

be entitled to be released on bail as the trial is likely to take time to conclude as the prosecution evidence is yet to start.

Without delving into the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

May 25, 2022
savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>