

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

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CRM-M-26755-2022

Date of Decision: 22.06.2022

JAI GOVIND CHOUHAN

... Petitioner

Versus

STATE OF CHANDIGARH (U.T.)

... Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Vikas Garg, Advocate
for the petitioner.

Mr. Rajiv Vij, Addl. P.P. for U.T., Chandigarh.

VINOD S. BHARDWAJ, J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.72, dated 18.05.2022 under Section 376(1) of the Indian Penal Code, 1860, Section 6 of The Protection of Child from Sexual Offences Act, 2012 and Section 10 of the Prohibition of Child Marriage Act, 2006, registered at Police Station Sector 39, Chandigarh (UT).

Learned counsel appearing on behalf of the petitioner *inter alia* contends that the perusal of the FIR shows that the marriage of the petitioner was solemnized with the prosecutrix Preeti Kumari on 28.11.2021 at her village Dhuria Kot, District Khushi Nagar, U.P. and that after being pregnant out of this wedlock, when she had gone to Civil Hospital for routine check up, the doctor asked her to produced her age proof, whereupon, she produced her matriculation certificate, in which, her date of birth was recorded as 10.03.2004 and she was 18 years and 02 months old

on the said date carrying a foetus of five months. Hence, the information was sent by the Doctor to the police in relation to the pregnancy considering the fact that the complainant was less than 18 years when she became pregnant. Learned counsel further refers to the statement of Preeti Kumari wherein she has averred that she was living a married life with her husband (the petitioner herein) and that the marriage was solemnized by her parents and that she was not aware of the marriage being illegal and now after attaining the age of majority, she does not want to get her child/foetus aborted and also does not want to take any legal action against any person.

Learned counsel further points out that the petitioner is working in a private company in Mohali and that it was only on account of the aforesaid circumstances that the present case came to be registered under relevant Section of Indian Penal Code alongwith Section 6 of The Protection of Child from Sexual Offences Act, 2012 and Section 10 of the Prohibition of Child Marriage Act, 2006. It is further contended that the complainant/prosecutrix has nowhere deposed against the petitioner and that the petitioner and prosecutrix had happily cohabited as husband and wife prior to the arrest of the petitioner. He further contends that the custodial interrogation of the petitioner is not warranted in the given set of circumstances of the present case and that no recovery is to be effected from the petitioner. He further contends that the wife of the petitioner is pregnant for nearly six months and the petitioner is the only male person in the family to take care of his wife (prosecutrix).

Learned counsel appearing on behalf of the U.T. Chandigarh contends that the petitioner is in judicial custody since 18.05.2022. He

however, could not dispute the fact that no recovery is to be effected from the petitioner as his custodial interrogation is not required for further investigation.

Taking into consideration the facts noticed above and peculiar circumstances of the present case, I deem it appropriate to allow the instant petition.

Accordingly, the present petition is allowed and the petitioner is admitted to regular bail subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

Petition stands allowed accordingly.

(VINOD S. BHARDWAJ)
JUDGE

22.06.2022
rajender

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