

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

204

CRM-M-26782-2022
Decided on :27.06.2022

Dinesh

. . . Petitioner

Versus

State of Haryana

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Ms. Jasneet Mehra, Advocate for
Mr. Amrainder Singh, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 298 dated 17.11.2021 under Sections 6, 12 and 17 of the Protection of Children from Sexual Offences Act, 2012, Section 506 of the Indian Penal Code, 1860 (Sections 376(2) (N), 323, 328 and 406 IPC added later on) registered at Police Station NIT, Faridabad, District Faridabad.

Learned counsel for the petitioner has submitted that in the present case, the petitioner had married the complainant on 25.06.2021 and regarding the same, reference has been made to a marriage certificate issued by the Arya Samaj Mandir Trust (Registered) (Annexure P-2). It is further submitted that as per the Adhaar Card (Annexure P-4), the date of birth of the complainant is 23.09.2001 and thus, on the date of the marriage, the complainant had attained the age of majority. A reference has also been made to affidavit dated 25.06.2021 (Annexure P-5) in which

the complainant has stated that she had married the present petitioner on 25.06.2021 without any coercion or pressure. It is contended that on 14.09.2021, the complainant had gone to her parental house and thereafter, the petitioner was unable to contact the complainant and thus, the petitioner filed a petition under Section 9 of the Hindu Marriage Act, 1955 for seeking restitution of conjugal rights on 21.10.2021. It is further contended that after filing of the said petition, the present FIR has been registered on 17.11.2021 in which the allegations have been levelled with respect to some incident which had taken place prior to the marriage. It is argued that although, no date has been given of any alleged incident but the complainant had stated that the said alleged incident had taken place when she was 17 years of age and thus, the incident is dates back to more than 2 years ago and thus, the FIR has been registered after a delay of 2 years from the date of alleged incident. It is further argued that allegations to the effect that the petitioner had forcibly taken the complainant to a temple for marriage had been levelled and it has been submitted that the said allegations to get FIR registered have only been made to counter the petition under Section 9 of the Hindu Marriage Act. It is further submitted that the petitioner has been in custody since 07.12.2021 and there are as many as 22 prosecution witnesses and none of them have been examined, thus, the trial is likely to take time.

Learned State counsel, on the other hand, has opposed the present application for regular bail and has submitted that as per the allegations made in the FIR, the offences under which the FIR has been

registered are made out. It is further submitted that since on the date of the occurrence, the complainant was alleged to be 17 years of age, thus the provisions of the POCSO Act have been rightly invoked.

This Court has heard learned counsel for the parties and has perused the paperbook.

The petitioner has been in custody since 07.12.2021 and there are 22 prosecution witnesses and none of them have been examined, thus, the trial is likely to take time. The petitioner is not involved in any other case. It is the case of the petitioner that he had solemnized marriage with the complainant on 25.06.2021 and for the same, reference has been made to the marriage certificate (Annexure P-2). A reference has also been made to the affidavit dated 25.06.2021 (Annexure P-5) in which, it has been stated by the complainant that she married the present petitioner on 25.06.2021 without any coercion or pressure. As per the Aadhaar Card (Annexure P-4), the date of birth of the complainant is 23.09.2001 and thus, on the date on which the complainant got married to the petitioner i.e. 25.06.2021, as per the case of the petitioner, the complainant had attained the age of majority. In the FIR, no date of any incident has been mentioned and the said FIR has been registered after filing of the petition by the petitioner under Section 9 of the Hindu Marriage Act, 1955. Prima facie, it also appears that the FIR has been registered after much delay. The co-accused of the petitioner, Yogesh has been granted interim protection by a coordinate Bench of this Court vide order dated 10.05.2022 passed in CRM-M-19754-2022 in a petition

under Section 438 Cr.P.C.

Keeping in view the above said facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

It is made clear, in case, the petitioner threatens or influences any witness, it would be open to the State to move an application for cancellation of the present regular bail granted to the petitioner.

(VIKAS BAHL)
JUDGE

June 27th,2022
Mehak

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No