

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

CRM-M-29597-2022 (O&M)

Date of decision : 16.11.2022

Vinod

.....Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

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

Mr. B.S. Virk, D.A.G., Haryana.

RAJESH BHARDWAJ, J. (Oral)

This is the second petition praying for grant of regular bail to the petitioner in case FIR No.155 dated 08.06.2020, under Sections 323, 498-A, 506 IPC; Sections 6, 8 of POCSO Act, 2012 and Sections 3(1)(w)(ii) and Sections 3(2)(va) of SC/ST Act, 1989 (Sections 9, 10, 11 of Child Marriage Act, 2006 added later on), registered at Police Station Ram Nagar Karnal, District Karnal, Haryana.

As per the facts of the case, the present FIR was lodged on the statement of the prosecutrix (name concealed). The sum and substance of the allegations made by the prosecutrix are that she was 17 years of age. Her father was missing from the last about 09 years and she had studied upto 12th standard. It was alleged that Vinod (petitioner) is resident of their colony. He often used to do obscene acts after seeing her and on account of the same, she lodged FIR No.67/20, under Sections 354, 341, 506, 34 of IPC. Thereafter, the parents and family members of the petitioner approached the prosecutrix and her family members to compromise the matter. She was convinced by them to give the statement

in their favour so as to bring Vinod out of the jail. She deposed in his favour and Vinod was freed from the jail on 16th March, 2020. She alleged that thereafter, she was forcibly got married with Vinod in the temple. After the marriage, they stayed as husband and wife in the matrimonial home for about 25-30 days. However, thereafter, Vinod and his family members started harassing her and she was abused as well. They started saying that they have married her with Vinod only to facilitate the bail in the FIR she has filed. She was harassed unabatedly though she was minor but she was married to Vinod forcibly. The request was made to lodge the FIR and to take legal action against the culprits. On her statement, FIR was lodged and the investigation commenced and the petitioner was arrested on 24.06.2020. He approached the Court of learned Additional Sessions Judge, Karnal praying for grant of bail, however, after hearing counsel for both the sides, the same was declined by learned Additional Sessions Judge, Karnal vide his order dated 07.08.2020. Aggrieved by the same, the petitioner is before this Court praying for grant of regular bail.

Learned counsel for the petitioner has submitted that on bare reading of the allegations in the FIR, false implication of the petitioner is writ large. He has submitted that the prosecutrix has levelled false and frivolous allegations against the petitioner and he was earlier also roped in by her in FIR No.67 dated 24.02.2020, under Sections 354, 341, 506, 34 of IPC and SC/ST Act at Police Station Ram Nagar Karnal, District Karnal, Haryana. However, thereafter, on his coming out of the jail both solminized marriage. He submits that the marriage with the petitioner has been admitted by the prosecutrix and thus, the offence which are alleged

like Section 376 IPC and Section 6 of POCSO Act are not made out against the petitioner as it was the relationship between the husband and wife. He has submitted that there is no authenticated record regarding the age of the prosecutrix and thus, the petitioner is falsely prosecuted for the various offences. He has submitted that the prosecutrix was duly married with the petitioner and after his arrest, now without having taken any divorce, she has again married to someone else. She submits that the petitioner is behind bars from last more than two years and the material witnesses have also been examined. He submits that once the material witnesses already stand examined, the petitioner is not in a position to influence the prosecution witnesses. He also submits that in the overall facts and circumstances of the case, the petitioner deserves to be granted bail.

Learned State counsel on the other hand has submitted that the prosecutrix was minor being less than 18 years of age at the time of occurrence and there are specific allegations made by her against the petitioner. He has submitted that the prosecutrix has duly supported the case of the prosecution while examining in the Court as prosecution witness. He also submits that the prosecutrix had earlier also filed the FIR against this petitioner and that is also subjudice at present but the petitioner is on bail in that FIR. He has submitted that besides two case which are at the behest of the same prosecutrix, the petitioner is not facing the prosecution in any other case. He submits that out of 24 prosecution witnesses, 06 witnesses have already stand examined.

I have heard counsel for the parties and perused the record.

The petitioner is behind the bars since 24.06.2020. As per the allegations in the FIR, the prosecutrix was married with the petitioner. However, the allegations levelled are that she was minor at the time of performing her marriage with the petitioner. In these circumstances, whether the offence under Section 376 IPC and Section 6 of POCSO Act is made out or not would be assessed only after the conclusion of the trial. There is nothing on record to show that the petitioner has any criminal antecedents. However, the prosecutrix and other material witnesses already stand examined. As per information, besides two cases as mentioned above, the petitioner is not facing the prosecution in any other case.

The trial of the case will take sufficiently long time. This Court would refrain itself from commenting anything on the merits of the case. However, confining itself to the prayer made for bail, this Court finds that counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, 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. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(**RAJESH BHARDWAJ**)
JUDGE

16.11.2022
m. sharma

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