

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

213

CRM-M-37014 of 2022
Date of decision:26.08.2022

Vishal

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vinay Kumar Pandey, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

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.212 dated 11.07.2021 registered under Sections 363, 366, 376(2)(a)(n) of Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Pehowa, District Kurukshetra (Annexure P-1).

Criminal law has been set in motion on the basis of complaint given by mother of a 17 year old girl (for short “the prosecutrix”) on the allegation that her daughter has been enticed by Vishal (present petitioner).

Counsel for the petitioner has referred to the photographs (Annexure P-2) to submit that the petitioner has married the prosecutrix. By drawing attention of the Court to the statement of the prosecutrix recorded under Section 164 Cr.P.C., (Annexure P-3), as well as her testimony

(Annexure P-4), counsel urges that there is no allegation of sexual assault against the petitioner. It is his submission that the complainant in her testimony (Annexure P-5), has categorically stated that she does not have any objection to the marriage. Counsel asserts that the petitioner, who has a clean past and is in custody since 23.03.2022 deserves to be released on bail.

Upon instructions from SI Pawandeep Kaur, State counsel has opposed the petition and has submitted that date of birth of the prosecutrix is 23.11.2003 and she was minor on the date of alleged enticement. Still further, she submits that prosecution is not in a position to verify the alleged marriage as the petitioner has not produced the marriage certificate. She has specific instructions to state that prosecutrix has refused to get herself medically examined and that 03 out of total 13 prosecution witnesses have been examined.

Having considered the submissions made by counsel for the parties, but without adverting to the merits or demerits of the arguments addressed, this Court is *prima facie* of the view that validity of the marriage as well as culpability of the petitioner in the offence would remain subject matter of debate before the Trial Court. As the material prosecution witnesses have been examined and the trial is likely to take time to conclude because 10 more prosecution witnesses are to be examined, petitioner, who is in custody for the last more than 05 months, would be entitled to be released on bail.

Petition is allowed. 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.

August 26, 2022
savita

(SUVIR SEHGAL)
JUDGE

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