

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

230

CRM-M-3676-2023

Date of Decision: 17.02.2023

Paramjit Singh @ Pawan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Venu Gopal, Advocate for the petitioner

Mr. Gurbir Singh Dhillon, AAG, Haryana

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant petition under Section 439 Cr.P.C., is seeking regular bail in FIR No.217 dated 03.10.2020 under Sections 363 & 366-A of IPC (Section 342 & 506 of IPC and Section 6 of POCSO Act were added later on) registered at Police Station Ismailabad, Pehowa, District Kurukshetra.

2. Reply by way of affidavit of Gurmail Singh, Deputy Superintendent of Police, Pehowa, District Kurukshetra filed by respondent-State is taken on record. Registry is directed to tag the same at appropriate place.

3. The case of prosecution is that on 03.10.2020, the complainant moved a complaint before police authorities alleging that he has one son and one daughter. She is learning tailoring work in a centre at Pehowa. She is 17 ½ years old. On 02.10.2020, at about 8:30 AM as usual she went to said Centre but did not return back. He has suspicion

that Paramjeet Singh allured her and took her away with him to perform marriage. The FIR came to be registered under Sections 363 & 366A of IPC. The victim and the petitioner were recovered on 21.01.2021. The petitioner was arrested on the same day. The petitioner is in custody since then.

4. Learned counsel for the petitioner, *inter alia* contends that petitioner is in custody since 21.01.2021 and all the prime witnesses stand examined. The prosecutrix, at her own accord, left her home with the petitioner and performed marriage with him. They stayed in a rented accommodation for almost two months and the landlord in his statement before the Trial Court has categorically stated that the petitioner and prosecutrix came to him as husband-wife and they stayed there for two months. He has further confirmed that prosecutrix did not raise alarm against the petitioner and she was happily staying with other tenants and there were almost 40 persons staying in his accommodation. She also performed fast of *Karva Chauth* like other married women. The prosecutrix has solemnized marriage with some other boy. The petitioner is not involved in any other offence. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is permanent resident of District Kurukshetra. The petitioner has deep roots in the society. There is no possibility of flee from justice.

5. Custody certificate dated 15.02.2023 is taken on record. Registry is directed to tag the same at appropriate place. As per custody

certificate, the petitioner is not involved in any other offence and he has already suffered incarceration of 2 years.

6. Learned State counsel submits that police report has already been filed and charges stand framed. He further submits that out of 20 witnesses, 7 witnesses have already been examined which includes the prosecutrix. The petitioner is involved in the commission of grave offence, thus, no leniency is warranted and release of petitioner would hamper the trial.

7. In the case in hand, the petitioner and prosecutrix had performed marriage and they stayed as husband wife for more than 3 months. As per statement of landlord, the prosecutrix was happily staying with the petitioner as his wife and she even performed fast of *Karva Chauth* along with other tenants. The petitioner is not involved in any other offence and prosecutrix has already performed marriage with another boy. The petitioner is in custody for last 2 years. There are 20 prosecution witnesses and till date only 7 witnesses have been examined, thus, there is abysmally low possibility of conclusion of trial in near future. The material witness i.e. the prosecutrix stands examined. As prosecution has right to arrest, investigate the matter and restrain an accused from manipulating or winning over witnesses, similarly accused in view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of petitioner being

flee from justice or tampering the evidences or winning over/threatening the witnesses.

8. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaqa/Duty Magistrate concerned.

9. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

17.02.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>