

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

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CRM-M-7942-2023

Date of Decision: 20.02.2023

Guljinder Singh @ Ghug @ Gurjinder Singh**...Petitioner****Versus****State of Punjab and Others****...Respondents****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Sandeep Arora, Advocate for the petitioner

Mr. Amish Sharma, AAG, Punjab
(assisted by ASI Sohan Lal)

Mr. G.S. Rawat, Advocate for respondent Nos.2 and 3

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant petition under Section 439 Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking regular bail in FIR No. 225 dated 19.08.2020 under Sections 363, 366-A, 376, 120-B of Indian Penal Code, 1860 (for short 'IPC') and Section 4 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') registered at Police Station Division No.7, Jalandhar.

2. Mr. G.S. Rawat, Advocate appeared and filed his Memorandum of Appearance and Power of Attorney for respondent No.2 and respondent No.3, respectively. The same are taken on record and Registry is directed to tag at appropriate place.

3. The case of prosecution is that FIR No.225 dated 19.08.2020 was registered on the complaint of respondent No.2 i.e. mother of prosecutrix. The complainant alleged that her daughter aged 17 years had

gone for tuition on 19.08.2020 but she did not return and she has suspicion that Gurjinder Singh had enticed away her daughter on the pretext of marriage.

4. Learned counsel for the petitioner, *inter alia* contends that petitioner solemnized marriage with respondent No.3 on 09.12.2020 at Panchkula as per Hindu rites and ceremonies. The petitioner and respondent No.3 filed criminal writ petition bearing *CRWP-10361-2020* before this Court seeking protection of their life and liberty. The petitioner and respondent No.3 are blessed with a son. The complainant has compromised the matter with the petitioner and for the said purpose she has executed compromise deed dated 30.01.2023. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is permanent resident of District Jalandhar. The petitioner has deep roots in the society. There is no possibility of flee from justice.

5. Custody certificate dated 19.02.2023 is taken on record. Registry is directed to tag the same at appropriate place. As per custody certificate, the petitioner is in custody since 21.10.2022.

6. Learned State Counsel, on instructions from ASI Sohan Lal, submits that police report has already been filed and charges stand framed. He further submits that out of 14 witnesses, 7 witnesses have already been examined which includes the prosecutrix. The prosecutrix has turned hostile.

7. Learned counsel for the respondent Nos.2 and 3 submits that they have no objection if petitioner is released on bail. He further confirms that complainant has compromised the matter with the petitioner and prosecutrix at present is staying with her in-laws.

8. In the case in hand, the petitioner has solemnized marriage with respondent No.3 and prosecutrix for last two years is staying with the family members of the petitioner. She has turned hostile. She is staying with her in-laws. The petitioner and respondent No.3 had filed petition before this Court seeking protection of their life and liberty. The petitioner is in custody since 21.10.2022. The charges stand framed. There are 14 prosecution witnesses and till date, 7 witnesses have been examined, thus, there is abysmally low possibility of conclusion of trial in near future. The material witness i.e. prosecutrix and complainant stand 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.

9. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. The petitioner is ordered to be released on bail

subject to conditions as may be imposed by Trial Court/Illaq/Duty Magistrate concerned.

10. 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

20.02.2023
Mohit Kumar

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