

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

205

Criminal Misc. No. M-21659 of 2023

Date of decision :-12.09.2023

Mohammad Mohin alias Mohd. Mohin

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Abhinav Sood, Advocate
for the petitioner.

Mr. Arjun Lakhanpal, Addl. A.G., Haryana assisted by
ASI Pushpa.

Mr. Aditya Sanghi, Advocate with
Mr. Lokesh Sharma, Advocate
For the complainant.

NIDHI GUPTA J. (Oral)

The petitioner is seeking anticipatory bail in FIR
No.0033 dated 03.02.2023, under Section 346 IPC (Sections 376-D
and 363 IPC added later on), registered at Police Station Mundkati,
Tehsil and District Palwal.

On 01.5.2023, this Court had passed the following order

:-

*“This is a petition for grant of pre-arrest
bail to the petitioner in case FIR No.0033 dated
03.02.2023 under Sections 346 IPC (Sections 376-
D, 363 IPC added later on) registered at Police
Station, Mundkati, Tehsil and District, Palwal.*

2. *Learned counsel for the petitioner contends that the petitioner and the victim married on 02.02.2023. The marriage was registered before the concerned Marriage Registration Officer, Ghaziabad on the same date, the certificate is on record as Annexure P-4. Thereafter, the parties started staying together as husband and wife, and also filed a petition seeking protection of their life and liberty from this Court, i.e., CRWP No. 1529 of 2023, whereupon notice of motion was issued vide order dated 17.02.2023 (Annexure P-5). The complainant/victim's father has himself stated her to be 18 years one month old. In the victim's statement under Section 164 Cr.P.C., recorded by the Magistrate on 19.02.2023 also, she has given her age to be eighteen years and one month. She also stated to have willingly accompanied the petitioner and married him, and also that she was under threat from her parents and relatives.*

3. *It is further contended by the learned counsel that she was taken away by her father and other relatives, after beating the petitioner. A representation/complaint dated 23.02.2023 (Annexure P-7) in that regard was also submitted to the Commissioner of Police, Noida, signed by the petitioner as well as the victim, and his previous wife. A habeas corpus petition was also filed seeking her custody, i.e., CRWP No.2171 of 2023. However, in the second statement under Section 164 Cr.P.C. recorded on 05.03.2023, under the parents' pressure the victim alleged gang rape with her by the petitioner and two other persons.*

4. *Learned State counsel appearing on advance notice does not dispute the facts afore-*

stated. Her contention is that there are two versions recorded about the prosecutrix's age. Although in the FIR as well as the first statement of the victim recorded under Section 164 Cr.P.C. she is stated to be more than 18 years of age, in the Municipal records her age is less than 17 years.

5. Notice of motion.

6. Ms. Mahima Yashpal, Deputy Advocate General, Haryana, accepts notice on behalf of the respondent-State.

7. Adjourned to 12.09.2023.

8. In the meanwhile, the petitioner shall join the investigation as and when called upon to do so by the Investigating Officer, and in the event of arrest he shall be released on interim bail to the satisfaction of Arresting Officer. The petitioner shall also abide by the conditions of Section 438(2) Cr.P.C.”

Learned State counsel, on instructions from ASI Pushpa states that in terms of the order passed by this Court, reproduced above, the petitioner has joined the investigation and no further interrogation is required at this stage.

In view of the above, the order dated 01.5.2023 granting interim bail to the petitioner is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join the investigation and cooperate with the investigating agency in case he is required for the same in future as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the investigating agency that the petitioner is required for the

investigation but is not cooperating, they will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

September 12, 2023
Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes / No
Whether Reportable Yes / No