

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(102+201)

CRM-M-33391-2022 (O&M)-

Date of decision:- 03.02.2023

Raj Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Sitanshu Sharma, Advocate for the applicant-petitioner.
Mr. Saurabh Mohunta, DAG, Haryana.

SUVIR SEHGAL, J. (Oral)

CRM-4692-2023

Application is allowed as prayed for.

Marriage Certificate as well as photographs, taken at the time of wedding are taken on record as Annexures P-6 and P-7, respectively.

Main case

On 16.12.2022, this Court passed the following order:-

This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of regular bail in FIR No.69 dated 25.03.2021, registered for offences under Sections 66 and 67-A of Information Technology Act, 2000, Section 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 506 of the Indian Penal Code, 1860, at Women Police Station Ballabgarh, District Faridabad, Haryana.

Counsel for the petitioner submits that although there are allegations of sexual assault against the petitioner, but both the prosecutrix and her mother have not supported the case of the prosecution and have executed affidavits, Annexures P-4 and P-5, respectively, deposing that it has been agreed that the petitioner will marry the prosecutrix, who has attained marriageable age.

Both these affidavits have been verified by the State after recording the statements of the prosecutrix and her mother.

*In view of the submissions made by counsel for the petitioner, to test his bona fide, petitioner is ordered to be released on ad-interim bail for six weeks subject to furnishing bail/surety bonds to the satisfaction of the Trial Court/Area Magistrate concerned. Period of six weeks will start from the day petitioner is enlarged.
List on 03.02.2023.”*

Counsel for the petitioner submits that the petitioner was released on interim bail on 02.01.2023 and he has performed marriage with the prosecutrix as is evident from Annexures P-6 and P-7. He submits that the prosecutrix and her mother have been examined as PW-1 and PW-2 and both have been declared hostile by the Trial Court.

Upon instructions, State counsel has opposed the petition and has submitted that marriage with the prosecutrix would not dilute the offence under the POCSO Act.

Having heard counsel for the parties, this Court is of the view that in view of the developments, which have taken place during the pendency of the petition, interim order dated 16.12.2022 deserves to be confirmed.

In view of the above, petition is allowed.

Interim order dated 16.12.2022 passed by this Court is made absolute subject to the petitioner furnishing fresh bail/surety bonds to the satisfaction of the Trial Court/Area Magistrate concerned.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

03.02.2023

Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No