

CRM-M-33662-2023
Date of decision: 09.08.2023

...PETITIONER

...RESPONDENT

Present: Mr. V.K. Gupta, Advocate for the petitioner.
Mr. Ranvir Singh Arya, Addl. AG, Haryana.

1. Status report by way of an affidavit of Narinder Singh, HPS, Deputy Superintendent of Police, Samalkha, Panipat on behalf of the respondent-State and custody certificate of the petitioner have been filed and the same are taken on record.

2. Ajun-petitioner is seeking regular bail in the case bearing FIR No.193 dated 06.06.2021 under Sections 365/34 IPC (charged under Sections 363/366/376(3)/376(2) (n) IPC and Section 6 of POCSO Act and 9 of Prohibition of Child Marriage Act), registered at Police Station Israna, District Panipat.

3. Learned counsel for the petitioner contends that the FIR was registered on the basis of the statement of the father of the victim alleged to be aged about 14 years. It was alleged that on 05.06.2021, the victim has been kidnapped by the petitioner. In fact, as per the ossification test, the age of the victim has been opined to be 18 years. The victim has solemnized marriage with the petitioner and a girl child has also been born from the wedlock. Presently, the victim is residing in the parental house of the petitioner. The petitioner is in custody for a period of 10 months and 17 days and is not involved in any other case. Till date, no witness on behalf of the prosecution has been examined.

Learned State counsel has opposed the bail application on the score

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that as per the birth certificate, the date of birth of the victim is 01.01.2007 and furthermore, the offence under Sections 9 & 10 of the Prohibition of Child Marriage Act, 2006 has also been added. The victim went missing from the house on 05.06.2021 and has been recovered on 20.09.2022 i.e after a lapse of period of about 01 year and 03 months from the house of the petitioner and she was carrying a 13 days old baby with her.

5. It has not been disputed that the victim during the course of investigation had made a statement that she has solemnized marriage with the petitioner and a daughter has also been born from the wedlock. As per the ossification test, the age of the victim has been opined to be 18 years. Even, the victim is presently residing in the parental house of the petitioner along with her daughter. Out of 20, till date no witness has been examined. The petitioner is in custody for a period of 10 months and 17 days and is not involved in any other case. The conclusion of trial is likely to take sometime. No fruitful purpose will be served by detaining the petitioner in further custody. As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner.

6. Without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

7. The petition is allowed accordingly.

09.08.2023
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(VIVEK PURI)
JUDGE

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