

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

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CRM-M-36357-2023

Date of decision: 30.11.2023

SANDEEP SINGH @ SAGAR**....Petitioner****Versus****STATE OF PUNJAB****...Respondent****CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present : Mr. J.S. Thind, Advocate
for the petitioner.

Mr. Harpreet Singh, Addl. A.G., Punjab.

HARPREET KAUR JEEWAN, J. (ORAL)

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case bearing FIR No.43 dated 25.04.2023 registered under Sections 363, 366, 376-A, 120-B IPC and Section 6 of the POCSO Act at Police Station "D" Division, District Amritsar.
2. Learned counsel for the petitioner *inter alia* contends that the petitioner was arrested on 07.05.2023 and since then he is in judicial custody. The challan has already been presented. The prosecutrix is more than 18 years of age and in her statement under Section 164 Cr.P.C. recorded by the Judicial Magistrate, the prosecutrix has stated that she has left her parental house with her own will and solemnized marriage with the present petitioner-Sandeep Singh @ Sagar.
3. On the other hand, learned State counsel has opposed the bail petition on the ground of gravity of the allegations. He submits that the prosecutrix was

minor and there is apprehension of tampering with the prosecution evidence, in case the petitioner is released on bail. However, it is submitted that no human semen and male DNA was detected, as per the report of the DNA. Copy of the report of Forensic Science Laboratory, Punjab is submitted in Court today, which is taken on record.

4. I have considered the aforesaid submissions. The present case was registered against the petitioner under Sections 363, 366 read with Section 34 IPC. The age of the prosecutrix is stated to be 17 ½ years. The FIR was registered at the instance of the father of the prosecutrix, wherein it was contended that the petitioner is residing in the neighbourhood of the complainant and he used to pressurize the prosecutrix to solemnize marriage with him. However, the petitioner had forcibly taken the prosecutrix from her house and when parents of the prosecutrix had gone to the house of the petitioner for making complaint for harassment to their daughter, they were informed about the fact that the prosecutrix has been abducted by the petitioner. As such the FIR was got registered.

5. As per the statement of the prosecutrix recorded on 08.05.2023 by the Judicial Magistrate, 1st Class, Amritsar under Section 164 Cr.P.C., she had testified that she has left her parental house as per her own wish and went to Manikaran Sahib and has solemnized marriage with her own consent with the petitioner on 28.04.2023 and had further stated that she does not want to go to her parents' house.

6. As per the reply filed by way of an affidavit of Surinder Singh, PPS, Assistant Commissioner of Police, Central, Amritsar, the statement of the prosecutrix under Section 161 Cr.P.C. was recorded and she is alleged to have

stated that she had gone from her house with the present petitioner on 24.04.2023 and they have solemnized marriage on 26.04.2023 at Manikaran Sahib. It is further alleged that the prosecutrix did not agree for having physical relationship with the petitioner. On 08.05.2023, the prosecutrix was produced before the Child Welfare Committee at Amritsar and she was ordered to be kept in Bhawan Asre, New Amritsar as she did not give consent to go with her parents. Her medical examination was conducted at Civil Hospital, Amritsar. As per the report of Forensic Science Laboratory, Punjab dated 23.11.2023, which has been submitted today in Court, no human semen and male DNA was detected in the samples of the prosecutrix.

7. In view of the above facts and circumstances and considering the fact the challan has already been presented; trial is going to take time to conclude and the petitioner is in custody for last about more than 6 ½ months, the present petition is allowed.

8. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate with following conditions:

- 1. That the petitioner will not influence the prosecution witnesses.
 - 2. That the petitioner will not leave India without prior permissions of the trial Court.
9. Nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

(HARPREET KAUR JEEWAN)
JUDGE

30.11.2023

P.Bhatt

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