

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

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**CRM-M No. 41875 of 2022  
Date of Decision : 21.3.2023**

*Gulab Singh**..... Petitioner**versus**U.T., Chandigarh**..... Respondent*

**CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present: Mr. S.S. Brar, Advocate, for the petitioner

Mr. Ankit Joshi, Legal Aid Counsel for the petitioner

Mr. Rajiv Anand, Addl. PP, UT, Chandigarh

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**TRIBHUVAN DAHIYA J. (ORAL):**

This is a petition under Section 439 Cr.P.C. seeking regular bail to the petitioner in case FIR No.31 dated 18.2.2020 under Sections 376(3), 354-A, 498-A IPC, Sections 6 and 8 of POCSO Act, 2012 and Sections 9 and 10 of the Prohibition of Child Marriage Act, 2006, registered at Police Station I.T. Park, Chandigarh.

2. The complainant/victim herself gave a statement alleging that she was married at the age of fifteen-sixteen years, and was being harassed by her in-laws on account of demands of dowry. During investigation when the D.N.A. profile of the child born out of the wedlock did not match, and further investigation was carried out. The petitioner's D.N.A. profile matched with that of the child. Offence under Section 376(3) IPC and Sections 6 and 8 of POCSO Act were added, and he was made an accused.

3. Learned counsel for the petitioner contends that the relationship between the petitioner and the complainant was consensual, though extra-

supported the prosecution version in her testimony before the trial Court (Annexure P-3). The complainant's age is also disputed as there is no cogent evidence on record establishing that she was a minor at the relevant time.

4. Learned Public Prosecutor, on instructions from SI Surya Prakash, opposes the grant of bail to the petitioner on the ground that his D.N.A. profile is matched with that of the child born to the complainant, who was minor at the time of alleged incident. He further contends that trial of the case is going on and twelve prosecution witnesses have already been examined. Remaining twenty six witnesses will soon be examined. The petitioner is in custody since 19.12.2020. There is no other criminal case against him.

5. Keeping in view the facts aforesaid, it is apparent that trial of the case will take long time to conclude as twenty six prosecution witnesses are still to be examined. At the same time, the material witnesses, including the prosecutrix, stand examined. The petitioner has no criminal antecedents. Therefore, no useful purpose will be served by confining him into custody, during trial, any longer.

6. Accordingly, the petition is allowed. The petitioner is ordered to be released on bail to the satisfaction of the trial Court/Duty Magistrate.

**(TRIBHUVAN DAHIYA)**  
**JUDGE**

**21.3.2023**  
*Ashwani*

Whether speaking/reasoned:  
Whether reportable:

Yes/No  
Yes/No