

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

214

CRM-M-47854-2022

Date of Decision: 22.02.2023

Shubham

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Tejinder Pal Singh, Advocate for the petitioner

Ms. Dimple Jain, AAG, Haryana

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant petition under Section 439 Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking regular bail in FIR No.220 dated 04.06.2022 under Sections 363, 366 & 366-A of Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Babain, District Kurukshetra.

2. The case of the prosecution is that on 04.06.2022 Sushil Kumar-father of victim moved a complaint alleging that his daughter has gone to her maternal uncle's house one week ago. Today, she had gone missing. Shubham who is a co-villager is also missing from his house. On the basis of complaint of father of the prosecutrix, an FIR under Sections 363, 366 & 366-A of the IPC came to be registered.

3. Learned counsel for the petitioner, *inter alia* contends that petitioner solemnized marriage with prosecutrix on 08.06.2022 and on the same day, he came to be arrested. Statement of prosecutrix under

Section 164 Cr.P.C. came to be recorded wherein she did not implicate the petitioner. She confirmed factum of marriage with the petitioner. The prosecutrix stands examined. It is a case of love marriage and prosecutrix is resiling from her earlier statements under the influence of her family members. The petitioner is in custody since 08.06.2022. The petitioner is not involved in any other offence. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is permanent resident of District Karnal. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Custody certificate dated 21.02.2023 is taken on record. Registry is directed to tag the same at appropriate place.

5. Learned State Counsel submits that police report has already been filed and charges stand framed. She further submits that out of 9 witnesses, 3 witnesses have already been examined which includes the prosecutrix. The petitioner is involved in the commission of grave offence, thus, no leniency is warranted and release of petitioner would hamper the trial.

6. In the case in hand, the petitioner solemnized marriage with prosecutrix. The prosecutrix in her statement under Section 164 Cr.P.C did not implicate the petitioner and she accepted the factum of marriage. The petitioner is not involved in any other case and he is in custody since 08.06.2022. There are 9 prosecution witnesses and key witnesses stand examined. As prosecution has right to arrest, investigate the matter and

restrain an accused from manipulating or winning over witnesses, similarly accused in view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of petitioner being flee from justice or tampering the evidences or winning over/threatening the witnesses.

7. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaq/Duty Magistrate concerned.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

22.02.2023

Mohit Kumar

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*