

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

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**CRM-M-60762-2022 (O&M)
Decided on : 09.01.2023**

Yakub Ali and another

. . . Petitioner(s)

Versus

State of Punjab and another

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Gaurav Partap S. Pathania, Advocate
for the petitioners.

Mr. J. S. Arora, DAG, Punjab.

SANJAY VASHISTH, J. (Oral)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioners, namely, Yakub Ali and Arshad Ali @ Rasad, who have been booked for having committed the offences punishable under Sections 366-A, 363 and 120-B IPC in case FIR No. 35 dated 10.12.2016, registered at Police Station Narot Jaimal Singh, District Pathankot.

Learned counsel for the petitioners submits that petitioner No. 1- Yakub Ali had performed marriage/nikah with Neefa @ Hanifa d/o Bashir Ahmad on 27.12.2016. However, earlier to that on account of eloping of the prosecutrix (Neefa @ Hanifa d/o Bashir Ahmad) with petitioner No. 1, one FIR No. 35 dated 10.12.2016 under Sections 366-A, 363, 120B IPC was registered at Police Station Narot Jaimal Singh, District Pathankot. Counsel

further submits that petitioner No. 1 and prosecutrix Neefa @ Hanifa had to file a protection petition also before this Court i.e. CRM-M-467391-2016, which was disposed of vide order dated 28.12.2016 with a direction to Senior Superintendent of Police, Pathankot to consider the representation submitted before it in regard to the grant of protection to the lives and liberty of both of them.

Counsel also refers to the birth certificate dated 22.07.2022 for showing that after performing of marriage between petitioner No. 1 and said Neefa @ Hanifa, they were blessed with a male child namely, Mubarak Ali on 19.01.2020 and female child, namely, Zenab Begum on 07.07.2022. Subsequently, parties had also compromised and executed a compromise deed dated 28.01.2018, wherein parties agreed for quashing of the FIR, which is here in question. However, said compromise could not be materialized on account of death of the complainant, namely, Bashir Ahmad, who was the father of the prosecutrix. Later on, Janno Biwi, who was mother of the prosecutrix had also expired on 25.08.2022 and death certificates of both of them are attached with the petition.

Learned State counsel on instructions from ASI Naresh Kumar, reads out the statement dated 18.11.2022 recorded under section 164 Cr. P.C., wherein prosecutrix Neefa @ Hanifa stated that she had left her paternal home on her own and eloped with petitioner No. 1. She further admitted that after eloping with petitioner No. 1, she performed marriage with him and has now been blessed with two children, who are aged about 3 years and about 6 months respectively. She has further stated that she is residing happily with her parents-in-law and there is no problem to her.

I have considered the submissions of both the sides, and perused the case file.

In view of the submissions addressed by counsel for the petitioners as recorded here above and also the stand of State counsel that in the statement under Section 164 Cr.P.C., prosecutrix has clearly stated that she is living happy life in her matrimonial house with her parents-in-law and that there is nothing pointed out by her about any illegal or forcible act at the instance of petitioner No. 1 or any other person, there is no point in keeping the petitioners inside jail for a case, conclusion of which is not likely to be in near future.

On asking by the Court, learned State counsel submits that though, after investigation in the present matter, supplementary challan qua both of the petitioners has been filed but, it is still under checking. From the statement of the respondent, it appears that submission of challan and then committing it to the Court of Sessions and then framing of charges etc. are the stages, yet to commence.

Upon query, learned Counsel for the petitioners submits that none of the petitioners are involved in any other case.

In totality of the facts and circumstances and also the fact that petitioners are inside jail since 17-11-2022, no purpose can be achieved by keeping them inside jail during the pendency of the trial. Therefore, present petition is **allowed**.

Accordingly, petitioners are ordered to be released on bail in this case, subject to their furnishing bail/surety bonds to the satisfaction of the learned Trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

It is made clear that the petitioners shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made here-in-above shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of evidence available on record.

Disposed of.

(SANJAY VASHISTH)
JUDGE

09.01.2023

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<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>