

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

227

CRM-M-17098-2024 (O&M)
Date of decision: 30.04.2024

Amit @ Monu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Yashveer Kharb, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 716 dated 30.11.2023, registered under Section 365 of IPC (Sections 363 and 366 of IPC added and Section 365 of IPC deleted later on) at Police Station Old Industrial Panipat, District Panipat.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was initially registered under Section 365 of IPC on the basis of a written complaint filed by the complainant 'S' (*name withheld*) alleging therein that on the previous night, his daughter 'B' (*name withheld*), aged 15 years, had left the house with her mobile phone at about 01:00 AM and her mobile phone was also switched off. He had tried to

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trace her but could not found her. After registration of FIR, investigation proceedings were initiated. The victim was produced before the police authorities on 04.12.2023. She refused to get her medical examination conducted. Her statement under Section 161 of Cr.P.C. was recorded, wherein she disclosed that she was taken away by the petitioner for the purpose of solemnizing marriage with him but due to her being minor, the marriage could not be solemnized. It was also stated that no wrong act was committed upon her. Her statement under Section 164 of Cr.P.C. was recorded on 05.12.2023, wherein she recorded the same statement. Offence under Section 365 of IPC was deleted and offences under Section 363 and 366-A of IPC were added. The petitioner was arrested on 08.12.2023. On interrogation, he suffered disclosure statement to the effect that he had induced the victim to marry with him and had enticed her away but their marriage could not be performed, she being a minor. Offence under Section 366-A of IPC was also deleted subsequently and instead thereof, offence under Section 366 of IPC was added. After completion of necessary investigation and usual formalities, *challan* under Section 173 Cr.P.C. was presented in the Court and presently, the petitioner is facing trial for commission of aforementioned offences. The petitioner had moved an application for grant of regular bail before the trial Court but the same was dismissed, vide order dated 26.02.2024.

3. The present petition has been filed by the petitioner on the ground and his counsel has argued that he has been falsely implicated in this case. He is in custody since 08.12.2023. Investigation has since been completed. The petitioner and the victim used to like each other and she had herself left her home with her own free will and without any undue influence.

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The ingredients for commission of subject offences were not attracted against the petitioner. The trial is likely to take time. No useful purpose would be served by keeping him in custody anymore. With these broad submissions, it is urged that the present petition deserves to be allowed.

4. Status report has been filed by respondent-State. Learned State counsel has argued that there are specific allegations against the petitioner. The victim and other material witnesses are yet to be examined. There are chances of the petitioner's intimidating the witnesses or absconding, if extended benefit of bail. Therefore, it is argued that the present petition is liable to be dismissed.

5. I have heard learned counsel for the parties and have also gone through the material placed on record very carefully.

6. The statements as recorded by the victim under Sections 161 and 164 of Cr.P.C. show that she was in love with the present petitioner and wanted to perform marriage with him. It is also revealed that on the fateful day i.e. 29.11.2023, she had herself left her house and had gone with the petitioner to perform marriage with him. It is a debatable question as to whether the provisions of Section 366 of IPC are attracted in this case or not as there is nothing on record to suggest that the victim had been taken away by the petitioner with intent to compel her to marry any person against her will or in order to force or seduce her to have illicit intercourse or knowing that she can be forced or seduced to illicit intercourse. The petitioner is in custody since 08.12.2023. Investigation has since been completed. Trial is likely to take time. Keeping in view the nature of allegation as levelled against the petitioner, the period of his incarceration and also in view of the

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established principle of law that bail is the rule and jail is an exception, I am of the considered opinion that this petition deserves to be allowed and the petitioner deserves to be given concession of regular bail.

7. Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

30.04.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

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