

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

213

CRM-M-39472-2023 (O&M)
Date of decision: 07.05.2024

GOPAL

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present : Mr. B.D. Sharma, Advocate
for the petitioner.

HARPREET KAUR JEEWAN, J.

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.0064 dated 26.02.2023 (Annexure P-1) under Sections 363, 366-A IPC read with Section 4 and 6 of the Child Marriage Restraint Act, 1929 registered at Police Station City Kharar, District SAS Nagar, Mohali.
2. Notice of motion.
3. On the asking of the Court, Ms. Sakshi Bakshi, AAG, Punjab accepts notice on behalf of the respondent-State.
4. Custody certificate dated 06.05.2024 has been filed on behalf of the respondent-State, which is taken on record. As per the custody certificate, the petitioner has undergone 01 year 02 months and 02 days of actual custody.
5. Short reply by way of an affidavit of Karan Singh Sandhu, PPS, Deputy Superintendent of Police, Sub-Division Kharar-1, District SAS Nagar has

been filed on behalf of the respondent-State, which is taken on record.

6. As per the prosecution case, the present FIR was lodged at the instance of brother of the prosecutrix on the ground that the petitioner had enticed away the prosecutrix on the pretext of marriage.

7. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in this case and he is in custody since 03.03.2023. He further contends that the prosecutrix has not stated anything incriminating against the petitioner in her statement recorded under Section 164 Cr.P.C. and also refused for her medical examination. He submits that investigation is complete and final report under Section 173 Cr.P.C. has been presented before the trial Court. The petitioner is ready to face trial. He further submits that the trial is going to take time to conclude, as such, prayer for releasing the petitioner on bail has been made.

8. On the other hand, learned State counsel on instructions from ASI Pavitar Pal Singh has informed that investigation is complete and final report under Section 173 Cr.P.C. has been presented before the trial Court.

9. I have considered the contentions raised on behalf of the petitioner and perused the paper-book. The FIR was registered at the instance of the brother of the prosecutrix, who reported the matter to the police that her sister aged 14 years was missing since 24.02.2023. Learned State counsel has shown copy of recovery memo in the Court today, whereby the prosecutrix was recovered on 02.03.2023 from a light point in the City and she was produced by her brother. As per the custody certificate, there is no history of other cases against the petitioner.

10. Investigation is complete and the final report under Section 173 of the Code of Criminal Procedure has been presented before the trial Court. In the

statement recorded under Section 164 Cr.P.C (Annexure P-3), the prosecutrix has not alleged anything incriminating against the petitioner and she has even refused for her medical examination.

11. In view of the above, the petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bonds bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

12. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

13. Pending miscellaneous application (s), if any, shall also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

07.05.2024
P.Bhatt

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