

CRM-M-40737-2024 (O&M)

212 IN THE HIGH COURT OF PUNJAB AND HARYANA
153 AT CHANDIGARH

2024:PHHC:118183



CRM-M-40737-2024 (O&M)
DATE OF DECISION : 09.09.2024

KISHAN ... PETITIONER

V/S

UNION TERRITORY OF CHANDIGARH AND ANOTHER
... RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Sankalp Gahlawat, Advocate for
Mr. Saurabh Dalal, Advocate for the petitioner.

Mr. Abhinav Gupta, Addl. P.P. U.T. Chandigarh.

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HARPREET KAUR JEEWAN, J. (ORAL)

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1. State has filed an application for placing on record Annexures R-1 & R-2. The same are allowed. Annexures R-1 & R-2 are taken on record.
2. Registry is directed to tag the same at the appropriate place.
3. Disposed of.

Main Case

4. The instant petition has been filed by the petitioner under Section 439 of the Code of Criminal Procedure seeking regular bail in case FIR No. 138 dated 23.11.2023 under Sections 363, 366, 376(2)(n) IPC and

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Sections 6, 17 and 21 of Protection of Children from Sexual Offences Act, registered at Police Station Mauli Jagran, Chandigarh.

5. State has filed the custody certificate reflecting the custody of the petitioner as 09 months and 04 days.

6. I have heard the counsel for the parties and perused the paper-book.

7. The FIR (Annexure P-1) was registered at the instance of the mother of the prosecutrix. The mother of the prosecutrix alleged that on 23.11.2023, the prosecutrix left the house during her absence, whose date of birth is 14.02.2007, she expressed her apprehension that her daughter had been enticed away by someone.

8. As per the statement of the prosecutrix under Section 164 Cr.P.C. (Annexure R-2), she went along with the petitioner to Naina Devi and they have solemnized marriage as per their free will. The parents of the petitioner had agreed for the said marriage, however, her parents were against the said marriage. The prosecutrix has also got recorded similar history at the time of her medical examination recorded in the medico-legal examination report (Annexure R-1).

9. Learned State counsel has informed that the investigation of the case is complete, final report/challan under Section 173 Cr.P.C. has already been presented and charges have been framed against the petitioner.

10. As per the custody certificate, the petitioner is in custody for more than 09 months. The petitioner is 20 years' old. The age of the prosecutrix is 16 years as per the statement under Section 164 Cr.P.C. wherein she has alleged that her date of birth is 14.02.2007 but about 2 years ago, she left her studies when she was in 10th class and she used to stay at

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home. Keeping in view the fact that investigation is complete, conclusion of the trial is going to take time, the petitioner is not having history of any other case against him, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court concerned.

11. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case and there are no observations regarding the legality of the marriage *inter se* the petitioner and the prosecutrix, since the prosecutrix was minor at the time of alleged occurrence.

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

09.09.2024

Janki

**(HARPREET KAUR JEEWAN)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No