



CRM-M-43411 of 2024 (O&M) **1**

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

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**CRM-M-43411 of 2024 (O&M)
DATE OF DECISION :- 12.05.2025**

Vicky Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Ms. Santosh Miglani, Advocate for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

Ms. Alisha Soni, Advocate for the complainant.

JASGURPREET SINGH PURI, J (ORAL)

Ms. Santosh Miglani, Advocate has submitted that she has been recently engaged and filed vakalatnama on behalf of petitioner, which is taken on record.

Ms. Neeru Bansal, Advocate has also appeared and filed vakalatnama on behalf of victim, which is taken on record.

1. The present petition has been filed under Section 483 of BNSS for grant of regular bail to the petitioner in FIR No.399 dated 07.09.2022, under Sections 365 IPC (deleted later on), 363, 366-A, 376(2)(n), 376(3) of IPC and Section 6 of POCSO Act and Section 9 of Child Marriage Act

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(added later on), registered at Police Station, Civil Line, Kaithal, District Kaithal.

2. Learned counsel appearing on behalf of the petitioner submitted that as per the allegations, the petitioner had enticed away the minor girl of the age of 15 years and submitted that it was by way of consent. He also submitted that marriage between the petitioner and the victim has already been solemnized and a child has also been born out of the wedlock and the petitioner has already suffered incarceration for a period of 01 year 06 months and 11 days, since the prayer in the petition is only for the grant of regular bail, the petitioner be granted the concession of regular bail. He also submitted that at the time of deposition before learned trial Court the victim has not supported the prosecution version although the complainant who is father of the victim has supported the prosecution version and the victim was declared as hostile. Learned counsel for the petitioner has also submitted that even a compromise quashing petition is also pending before this Court.

3. On the other hand, Mr. Vishal Kashyap, DAG, Haryana appearing on behalf of State of Haryana submitted that the petitioner is in custody from 01 year 06 months and 11 days and the victim did not support the prosecution version. He, however, submitted that the age of the girl at the time when the occurrence had take place was about 15 years and she had even given consent that would be of no relevance.

4. Learned counsel for the victim had stated that she had gone with the petitioner on her own even though she was minor but at the same time, she has already married the petitioner and a child has also been born out of the wedlock and therefore she has no objection in case the petitioner is granted bail.

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5. Learned counsel for the complainant has opposed the grant of bail on the ground that his daughter was enticed away by the petitioner while she was a minor and therefore considering the seriousness of the offence he is not entitled for the grant of regular bail.

6. I have heard learned counsels for the parties.

7. The total custody of the petitioner comes out to be 01 year 06 months and 11 days and as per learned counsel for the parties the victim has been examined and has not supported the prosecution version and has been declared hostile but at the same time, the father of the victim who is the complainant has supported the prosecution version and even today in the Court he is opposing the grant of bail to the petitioner. At the same time, learned counsel for the victim has so stated that since the marriage has been performed between the petitioner and the victim and a child has been born out of the said wedlock, the victim has no objection if the petitioner is released from jail.

8. Although age of the victim as per counsel for the parties is said to be 18 years as of today but at the time of alleged incident she was about 15 years old and her consent at that time was of no significance as she was a minor at that time; the present petition is only for the grant of regular bail and it is so stated by learned counsel for the parties that the victim has already married the petitioner and one child has also been born out of the wedlock and at the same time the total custody of the petitioner comes out to be 01 year 06 months and 11 days and therefore this Court is of the view that considering the aforesaid totality of the facts and circumstances of the case the petitioner deserves the concession of regular bail.

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9. Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

10. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

11. All pending applications (if any) shall also stand disposed of.

(JASGURPREET SINGH PURI)
JUDGE

12.05.2025

P.Singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No