

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

CRL. MISC. No.M-21530 OF 2015
DATE OF DECISION : 16th July, 2015

Suresh

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE SURINDER GUPTA

* * * *

Present : Mr. Jitender Dhanda, Advocate for the petitioner.

Mr. Vikash Chopra, Deputy Advocate General, Haryana.

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SURINDER GUPTA, J. (ORAL)

This petition has been filed for grant of regular bail to the petitioner in case bearing FIR No.821 dated 29.12.2014 registered at Police Station City Bhiwani, District Bhiwani for offences punishable under Sections 363, 366A, 376, 420, 467, 468, 471, 120-B IPC read with Section 10 of Child Marriage Act, Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and Section 4 of Protection of Children from Sexual Offences Act (POCSO Act) 2012.

Heard.

Notice of motion.

On asking of the court, Mr. Vikash Chopra, Deputy Advocate General, Haryana, who is present in the Court accepts notice and submits that intimation by Registry informing of fixation of the petition has already been received and record of the case is available with him.

Learned counsel for the petitioner submits that the petitioner contracted marriage with prosecutrix (name withheld). Both filed a petition in this Court seeking protection to their life and liberty, which was disposed of vide order dated 30.01.2015 passed in CRM-M No.3384 of 2015. The prosecution is alleging the age of the prosecutrix as less than 18 years but as per the ossification test report Annexure P-5 she was more than 18 years of age. Even before the Court the prosecutrix has made statement that she wants to go to her in-laws family.

Learned State counsel submits that as per the school record of the prosecutrix she was less than 18 years of age. As the offence under Section 376 IPC is prima facie made out and keeping in view the seriousness of the offence, the petitioner could not be allowed the benefit of regular bail.

It is a case where the prosecutrix alleged to have married the petitioner. The evidence relating to age of the prosecutrix is to be scrutinized during the trial.

Keeping in view the above facts, but without expressing any opinion on merits of the case, the present petition is allowed. Petitioner-Suresh is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of the Trial Court/CJM/Duty Magistrate, Bhiwani subject to following terms:-

1. The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.

2. In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh before the trial Court.
3. He shall not leave the country without previous permission of the Court.

16th July, 2015
'raj'

(SURINDER GUPTA)
JUDGE