

CRM No.11022 of 2017 in/and
CRM-M No.6898 of 2017

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

Date of decision: 13.07.2017

CRM No.11022 of 2017 in/and
CRM-M No.6898 of 2017

Parveen Kumar

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sherry K. Singla, Advocate, for the petitioner.

Mr. V.G.Jauhar, Sr. DAG, Punjab.

RAJIV NARAIN RAINA, J.

Initially, the petitioner moved CRM-M No.6898 of 2017 under Section 439 Cr.P.C. for grant of regular bail in case FIR No.228 dated 25.11.2016 registered under Sections 363/366-A/376 IPC at P.S. Maur, District Bathinda. Thereafter, the petitioner has preferred another application bearing CRM No.11022 of 2017 under Section 482 read with Section 439 Cr.P.C. for amendment in the head note of the main petition, as offence under Section 4 of the POCSO Act, 2012 has been added later on by the police vide Diary No.019 dated 20.02.2017.

Learned counsel for the petitioner submits that initially FIR was registered against the petitioner under Sections 263/366-A IPC, while offences under Section 376 IPC and under Section 4 of POCSO Act were added later on vide Diary No.23 dated 26.11.2016 and vide rapat No.19 dated 20.02.2017 respectively. He further submits that the petitioner has

been falsely implicated in the case, as in her statement recorded under Section 161 Cr.P.C. by the police, the prosecutrix stated that she has gone with the petitioner on her own and the latter has not kidnapped her and that both of them developed physical relations with their mutual consent. A copy of the statement recorded under Section 161 Cr.P.C. is at Annex P-4. Relying on the statement (Annex P-4), Mr. Singla submits that the petitioner and the prosecutrix were in love with each other and the prosecutrix accompanied the petitioner of her own and thereby, abandoned the guardianship of her parents voluntarily. The petitioner has no criminal antecedents and the final disposal of trial shall take time, hence the prayer for grant of bail.

Prayer for bail was opposed by learned Law Officer on the ground that sufficient evidence is available against the petitioner; hence he does not deserve the concession of bail pending trial.

Having heard learned counsel for the petitioner as well as the learned Law Officer, I am of opinion that this is usual case of a boy and girl professing love for each other. Love is no crime. As the prosecutrix was minor, the applicant has been sent behind bars because of the complaint lodged by the father of the prosecutrix. Undoubtedly, a minor girl is to be protected under law as there are number of instances of sexual abuses of minor girls and therefore, there is a special legislation of POCSO enacted in the year 2012 and consequential amendment in Section 375 and 376 of the IPC in 2014. The Court takes a very serious note of sexual offences against women and especially against minor girls and is always available for the rescue of the innocent and the misled. However, upon a fair reading of the statement of the prosecutrix, I find they eloped for their own personal

reasons of which the heart has many. It appears from the statement of the prosecutrix that she is in love with the petitioner and had left her parental home of her own. In this she did not commit crime nor was anything forced upon her. These are the mitigating factors and therefore, present applications deserve sympathetic consideration to take care of the human situation for the present. As they say, boys will be boys and girls will be girls.

Consequently, looking to the facts and circumstances of the case and the fact that disposal of trial shall take time, and without commenting on the merits of the case, both the applications are allowed and it is directed that the petitioner be released on bail on his furnishing personal bond with one solvent surety of an amount to the satisfaction of the trial Court for his regular appearance before the trial Court on the condition that he shall remain present before the Court concerned during the trial and shall also comply with the conditions enumerated under Section 437(3) of Cr.P.C. and so also as imposed by the trial Court.

Nothing stated or observed herein shall be construed as an expression of opinion on the merits of the case and the learned trial Court shall consider the matter on the basis of evidence and material as adduced before it, independently and uninfluenced by any observations made herein which were only for the concession of bail.

13.07.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>