

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M-15587 of 2018

Date of Decision: December 20, 2018

Suraj Verma

.....Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Lokesh Vohra, Advocate for
Ms. Ashima Lakhnpal, Advocate
for the petitioners.

Mr. Saurav Khurana, DAG, Punjab.

FATEH DEEP SINGH, J. (Oral)

At the very onset, learned State counsel has placed on the record the statement of prosecutrix under Section 164 Cr.P.C. as well as custody certificate and the copies thereof supplied to learned counsel for the petitioners.

This order shall dispose of first regular bail application under Section 439 Cr.P.C. in case bearing FIR No. 13 dated 16.01.2018 under Sections 363, 366-A and 376 of IPC and Section 4

of the POCS Act (added lateron) registered at Police Station Division No.1, Ludhiana.

The facts brought to the notice of this Court are that a case was got registered by the mother of the prosecutrix, a girl claimed to be 15 years of age alleging that she has been taken away on the enticement of marriage by the accused/petitioner and, subsequently, upon registration of the present case and recovery of the girl on 07.02.2018, she was produced before the learned Judicial Magistrate 1st Class, who recorded her statement leading to the arrest of the petitioner the same very day.

Mr. Lokesh Vohra, Advocate appearing for Ms. Ashima Lakhanpal, Advocate for the petitioner submits that the prosecutrix is more than 21 years of age at the time of the alleged occurrence and has sought to place reliance upon the own document of the prosecutrix (Annexure R-1/T), a statement made under Section 164 Cr.P.C. on 07.02.2018 before the learned Judicial Magistrate 1st Class where she has shown her age 21 years and her MLR bears too the same age and argues that it was a voluntary relationship between the accused and the prosecutrix girl and that even in her stand before the learned JMJC under Section 164 Cr.P.C. she has corroborated of having undergone matrimonial alliance with the accused and prayed that the petitioner is behind the bars for more than ten months.

On behalf of the State, Mr. Saurav Khurana, DAG, Punjab assisted by ASI Karanjit Singh, Police Station Kotwali, Ludhiana has opposed the grant of bail on the ground that the girl at the time of the

occurrence was a minor has sought to place reliance on the marriage certificate though readily accepts that there is no other proof of age to substantiate that she was 15 years old at the time of the occurrence. It is further argued that in view of the heinousness of offence and seriousness of crime, the petitioner is not entitled to any bail.

Appreciating the submissions of the two sides it is the own stand of the girl in her statement made on oath under Section 164 Cr.P.C. before the learned Judicial Magistrate that she was 21 years of age and which is corroborated by the medical report, the girl in her statement before the JMIC has claimed that she had taken away the petitioner alongwith her for the purposes of marriage and had performed marriage with each other and, thereafter, for some outing at various places including Delhi, Jammu, Amritsar etc. and had returned back. Thus, in the light of this a debatable issued having been arisen over the age of the girl and her statement made before the Court where she denied the allegations of the complainant/mother and that together with the fact that the medico-legal examination does not corroborate any allegation of rape, the petitioner is behind the bars more than 10 ½ months.

In the light of what has been detailed and discussed above, together with the fact that culpability, if any, of the petitioner shall be determined at the trial which is not likely to be concluded in the near future. This Court is of the opinion that it is a fit case for grant of bail. Accordingly, the petitioner is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate,

concerned. However, it is made clear that anything observed herein shall not be construed as an expression on the merits of the case.

Disposed off.

December 20, 2018
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No