

228.

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

CRM-M-23513-2019

Date of decision:27.05.2019

CHAMKAUR SINGH

... Petitioner

versus

STATE OF U.T. CHANDIGARH

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Deepak Goyal, Advocate,
for the petitioner.

Mr. Sukant Gupta, Addl. P.P., UT, Chandigarh.

Mr. Yogesh Goel, Advocate,
for the complainant.

HARI PAL VERMA, J.(Oral)

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.392 dated 13.09.2017 registered under Section 365 of IPC and Section 4 of Protection of Children from Sexual Offences Act, 2012 (Section 376 IPC and Section 6 of POCSO Act added lateron) at Police Station Sector 39, Chandigarh.

As per the FIR registered at the behest of the complainant Sushil Kumar, the prosecutrix, who is about 18 ½ years of age, has told her father that she has relations with the petitioner for the last 1 ½ years. On 09.09.2017 the prosecutrix had come from the Village Ghrancho, District Sangrur from the residence of her friend Chamkaur Singh. After staying with the complainant for 2 days, she went from home on 12.09.2017 at 3.30

At about 5 PM when the complainant called the prosecutrix from her phone, her both numbers were switched off. Her whereabouts were enquired and at about 8.00 PM, a text message seeking “help me” was received by the complainant which was seen at 10.00 AM on the next morning. After seeing that message, the prosecutrix made a whatsapp message to her mother that she is in difficulty. Even the wi-fi is not being connected. Thus, she sought help. However, when the wife of the complainant has enquired from the prosecutrix, she has written “kidnapped”. When further enquiry was sought, no reply was received.

Counsel for the petitioner has argued that in the aforesaid FIR, the matter has been compromised between the parties. He has produced an affidavit dated 24.05.2019 of the prosecutrix in support of the compromise in court today, which is taken on record.

Power of attorney filed on behalf of complainant in court today, is taken on record. Learned counsel for the complainant states that he does not dispute the compromise so adduced between the parties.

However, learned counsel appearing on behalf of UT Chandigarh states that on the relevant date when the petitioner has committed the offences, the prosecutrix was minor and, therefore, the provision of Sections 4 and 6 of POCSO Act have rightly been invoked in the case. He has filed the custody certificate of the applicant in Court today, which is taken on record.

I have heard learned counsel for the parties.

The matter having been compromised between the parties. The contention of the learned UT counsel that though at the time when the FIR

the first offence was committed, she was less than 18 years of age, therefore, the provisions of POCSO have been invoked, is a fact to be adjudicated during the course of trial.

Considering the fact that the petitioner is in custody since 16.02.2019 and the trial in the case will take long time, this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial court shall decide the case on the basis of available material.

(HARI PAL VERMA)
JUDGE

27.05.2019
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No