

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-29037-2019

Date of Decision:-26.09.2019.

Satguru Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Ms. Shivya Sehgal, Advocate for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.266 dated 22.09.2018 under Sections 363, 366 IPC (Section 376 IPC added later on), Sections, 3, 4 and 6 of the POCSO Act, 2012, registered at Police Station Division No.6, District Ludhiana.

Learned counsel for the petitioner states that the petitioner has solemnized marriage with the prosecutrix for which she has executed affidavit (Annexure P-2) dated 11.9.2018 wherein she has stated that she is about 19 years of age and is a major. She has further declared in the affidavit that she is competent to take decision and is responsible for all her decisions. Attention has also been drawn to Annexure P-3, a joint affidavit of the petitioner and the complainant regarding marriage agreement dated 11.09.2018. She states that the petitioner is in custody since 26.09.2018. The police has submitted challan and as per challan year of birth of the prosecutrix has been shown as 2002. In this manner, she is more than 17 years of age.

Learned State counsel, on instructions from ASI Major Singh states

of birth is 2002, she is still minor and, therefore, the provisions of POCSO Act have been rightly invoked in the case. He further states that the prosecutrix has made statement under Section 164 Cr.P.C. wherein she has stated that she was administered some intoxicant due to which she fell unconscious and was sexually exploited. She did not have the mobile phone so she could not contact the parents.

I have heard the learned counsel for the parties and have gone through the record.

The petitioner is in custody since 26.09.2018 and more than one year has been passed. Charge has been framed. This Court finds that trial will take more time. Further at this stage, on perusal of Annexures P-2 and P-3 signed by the prosecutrix, this Court finds that the culpability of the petitioner is yet to be established.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on her furnishing adequate bail and surety bonds to the satisfaction of learned trial Court.

However, it is made clear that in case the petitioner influences the remaining prosecution witnesses in any manner directly or indirectly, the State shall be at liberty to seek cancellation of her bail.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case without being influenced with these observations in any manner.

(HARI PAL VERMA)
JUDGE

September 26, 2019.

sandeep

Whether speaking/reasoned:-

Whether Reportable:-

Yes / No

Yes / No.