

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-29338 of 2019 (O&M)
Date of decision : July 17, 2019

Vijay @ Sonu

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. AS Khinda, Advocate, for the petitioner

Mr. Harbir Sandhu, AAG, Punjab, for the State with
ASI Kulwinder Singh

Fateh Deep Singh, J. (Oral)

Petitioner Vijay alias Sonu who is in custody in this case has sought regular bail.

The present case was got registered by mother of a girl aged around 17 years and 8 months. It is alleged by the complainant that during the intervening night of 19/20-11-2018, when she woke up around 5.00 AM, she saw that her daughter the victim was not in the house and on the basis of which the present case was got registered against petitioner Vijay @ Sonu and one Shinda non-applicant. It is on 25.11.2018, the girl was got

recovered and was produced before the Magistrate and was also medico legally examined on which date the accused too was arrested.

Learned counsel for the petitioner has argued that the girl is almost major and in her statement under Section 164 Cr.P.C. made before the learned Judicial Magistrate Ist Class, Mohali has denied the allegations of the prosecution and claims to have gone on her own with the accused-petitioner and who has done nothing bad with her.

Mr. Harbir Sandhu, AAG, Punjab though has not controverted the facts but has opposed the grant of bail on the grounds that if allowed bail, the petitioner might influence the trial.

The own stand of the State that the girl is almost nearing majority and her statement under Section 164 Cr.P.C. details that she has voluntarily went with the accused-petitioner and whatever has happened was with her consent. To the specific query of the Court, learned State counsel could not pin-point any medical evidence to show that the girl was defiled. Thus, the very applicability of offence under Sections 363, 366-A, 376(2)(n) IPC and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 is a debatable issue and which can only be adjudicated at the time of trial. The petitioner is behind the bars since a long time. The culpability, if any, shall be determined at the time of trial which is not likely to be concluded in near future and thus, no purpose will be served by retaining the petitioner in jail. Accordingly, he is ordered to be

released on regular bail to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Mohali.

The present petition stands disposed off accordingly.

The observations made herein above shall have no bearing on the merits of the case as these are purely for the disposal of the present bail application.

July 17, 2019
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(Fateh Deep Singh)
Judge

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