

CRM-M-47561-2019

Date of Decision : 14.11.2019

Naseem

.....Petitioner

versus

State of Haryana

....Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH**Present:** Mr. R.D. Gupta, Advocate
for the petitioner.Mr. Amrik Narwal, DAG, Haryana
for the respondent-State.**FATEH DEEP SINGH, J. (ORAL)**

The petitioner-Naseem, who is accused, has come up in this first regular bail application under Section 439 Cr.P.C. filed in a case bearing FIR No.59 dated 05.05.2019 under Sections 363, 366-A, 34 and 376 of the Indian Penal Code registered at Police Station Chachhrauli, Yamuna Nagar, before this Court.

Upon hearing Mr. R.D. Gupta, counsel for the petitioner and the learned State counsel along with SI Charanjeet, Police Station Chachhrauli, Yamuna Nagar and perusal of the records, it is the claim of the petitioner's side that the girl at the relevant time

was major and has placed on record two documents and that the petitioner is not the principal accused and has never been charged for commission of offence under Section 376 of the Indian Penal Code and is behind the bars since 28.05.2019 and, therefore, prays for grant of bail.

The learned State counsel opposing the application with assistance of SI Charanjeet, Police Station Chachhrauli, Yamuna Nagar and has contended that the victim happens to be a minor girl and the principal accused-Sadik, in connivance with the petitioner-Naseem, had managed to entice the girl and thereafter, defiled her against her wishes.

As far as the age of the victim, it would be too preposterous to comment on the same without there being substantial evidence worth credence and, therefore, order dated 24.09.2019 does not aid the case of the petitioner, as such, the comment would be prejudicial to the case of the parties at the trial. The averments of the complainant in the statement, the age of the girl reflected in the MLR and her statement under Section 164 Cr.P.C., clearly reflective that she was aged around 15 years and thus, minor. In the allegations and so, the statement of the girl and the evidence, highlighted during the course of arguments, attributing specific role to petitioner-Naseem in this enticement leading to defilement of the minor girl by the co-accused and, therefore, attraction of offence under Section 16/17 of the POCSO Act, 2012

are *prima facie* there. Since the investigations are at crucial stage, release of petitioner-Naseem, at this juncture, in view of the heinousness of the offences, is not called for and, thus, finding no merit, the present petition stands dismissed.

14.11.2019
Neha

(FATEH DEEP SINGH)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No