

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

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IN VIRTUAL COURT

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**CRM-M No. 13102 of 2020
Date of decision : 9.6.2020**

Akash

.....Petitioner

Vs.

State of Haryana

.....Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Balkar Singh, Advocate, for the petitioner

Rajbir Sehrawat, J. (Oral)

This petition has been filed by the petitioner under Section 439 of Cr.P.C. for grant of bail pending trial in case FIR No. 253 dated 13.6.2019, registered under Sections 363 and 366A IPC, at Police Station Ganaur, District Sonapat.

It is contended by the counsel for the petitioner that the case against the petitioner is totally concocted. The petitioner had no role in making the girl leave her house. Instead, she herself had accompanied the petitioner. Referring to the statement made by the prosecutrix before the trial Court, the counsel has submitted that the prosecutrix has not supported the case of the prosecution at all. Rather, she has specifically stated that the petitioner had no role in making her leave the house. It is further submitted that the petitioner is in custody since 26.6.2019. He is not required for any investigation purposes. Hence, the petitioner deserves to be released on bail.

Notice of motion.

Mr. Anmol Malik, DAG, Haryana accepts notice on behalf of the State.

Learned State counsel, on instructions from ASI Sushil, submits that the prosecutrix, though had stated before the trial Court that she is more than 18 years of age, however, the age certificate issued by the School shows her to be a minor. Accordingly, it is submitted that the consent of the prosecutrix does not have any meaning.

In response to this, learned counsel for the petitioner has submitted that it is not a question of consent of a minor because no charge of rape is involved. Moreover, the prosecutrix has made a categorical statement before the trial Court absolving the petitioner and the prosecution has not been able to extract from the prosecutrix anything adverse even in her cross examination. The trial Court is to proceed on the statement made before it and not upon the conjectural statement of any other person. Hence, there is no chance of the petitioner being convicted.

The State counsel has also not disputed the fact that the prosecutrix has not supported the case of the prosecution and that the petitioner is in custody since 26.6.2019.

In view of the above, but without commenting upon the merits of the case, the present petition is allowed. It is ordered that the petitioner be released on bail pending trial on his furnishing bail bonds/sureties to the satisfaction of the trial Court/ Duty Magistrate.

(RAJBIR SEHRAWAT)
JUDGE

9.6.2020
Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No