

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

CRM-M-13597-2020 (O&M)

Date of decision:15.6.2020

VISHAL

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. Shubhankar Baweja, Advocate Advocate
for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

*(the aforesaid presence is being recorded through video
conferencing since the proceedings are being conducted in Virtual
Court)*

GURVINDER SINGH GILL, J. (ORAL)

CRM-11885-2020

Allowed as prayed for subject to all just exceptions.

Main Case

1. The petitioner has filed this petition seeking grant of regular bail in a case registered against him FIR No.20 dated 29.3.2019 under Sections 363, 366-A IPC and Section 6 of POCSO Act at Police Station Women, District Kurukshetra.
2. The FIR in question was lodged on the statement of prosecutrix wherein it is alleged that her date of birth is 4.10.2001 and that as such she was aged a little less than 18 years. It is alleged that her parents, without her

consent had solemnized her marriage with Aman Kumar in connivance with said Aman Kumar and his parents although she was a minor and was not of a marriageable age. It is alleged that the accused were torturing her and had been misbehaving with her and on account of said intolerable conduct she ran away from matrimonial home about 5/6 days back and started residing with her friend Vishal and that there was no hand of Vishal in running away from her matrimonial home. However, the aforesaid Vishal was arrested on 29.5.2019. It is further the case of prosecution that a supplementary statement of prosecutrix was recorded on 5.7.2019 wherein she alleged that the aforesaid Vishal had also established physical relations with her.

3. Learned counsel for the petitioner has submitted that he has falsely been involved in the present case and in fact in the statement of the prosecutrix recorded in terms of Section 164 Cr.P.C. on 30.3.2019 (Annexure P-3) she has virtually given clean chit to all the accused by stating that she had given the complaint in question under some misunderstanding and that she does not wish to pursue the same. Learned counsel has further submitted that falsity of the FIR would be evident from the fact that during the course of trial of Aman Kumar who is juvenile, when the statement of the prosecutrix was recorded by the Juvenile Justice Board, she resiled from her statement and did not support the case of prosecution at all. Learned counsel for the petitioner in this regard has drawn the attention of this Court to the observations regarding resiling of statement in para No.7 of the impugned order dated 9.3.2020 (Annexure P-2).

4. Opposing the petition, learned State counsel has submitted that since the

prosecutrix was aged less than 18 years, no case for grant of bail is made out. Learned State counsel has however could not dispute the fact that prosecutrix has resiled from the statement when her statement was recorded before Juvenile Justice Board. Learned State counsel has informed that the petitioner has been behind bars since last more than 1 year.

5. I have considered rival submissions addressed before this Court. Having regard to the facts and circumstances of the case and while noticing that the prosecutrix has resiled from her statement before Juvenile Justice Board and that the petitioner has been behind bars since last more than 1 year, his further detention will not serve any useful purpose as the conclusion of trial is likely to take some time.
6. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

15.6.2020
Gaurav Sorot

(GURVINDER SINGH GILL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No