

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-14029 of 2020 (O&M)

Date of Decision: July 06, 2020

Nagesh Kumar @ Neena

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Ankur Bansal, Advocate
for the petitioner

Ms. Samina Dhir, DAG Punjab

Sudhir Mittal, J. (Oral)**Crl. Misc. No. M-14029 of 2020**

The petitioner seeks grant of regular bail in case FIR No. 58 dated 04.06.2019 registered under Sections 363, 366-A IPC and Sections 5 and 6 of the POCSO Act, 2012 at Police Station Basti Bawa Khel, Jalandhar.

Learned counsel for the petitioner submits that the petitioner had an affair with the prosecutrix. She invited him to his house and accompanied him out of her own free will. They got married at Chintpurni. Further, the petitioner has been in custody since 10.07.2019 and the trial is not likely to be concluded at an early date as even the charges have not been framed till date, thus, the petitioner deserves to be granted regular bail.

Custody certificate dated 05.07.2020 of Deputy Superintendent, Central Jail, Kapurthala has been placed on record. According to this custody certificate, the petitioner has undergone actual custody of 11 months and 24 days and there is no other case pending/decided against him.

Learned State counsel opposes the prayer for bail on the ground that a serious offence has been committed by the petitioner and a minor is involved.

It is evident that the trial is not likely to be concluded at an early date as charges are yet to be framed. It is also beyond the realm of doubt that the petitioner has been in custody for almost one year as on date. A perusal of the statement of the prosecutrix recorded under Section 164 Cr.P.C. (Annexure P-2) shows that she herself accompanied the petitioner and there was no enticement involved. Although the prosecutrix is a minor, she was almost 17 years of age when the offence was allegedly committed and was well aware of the consequences of her action.

Taking into consideration the entirety of the facts and circumstances of this case, I am of the opinion that the petitioner deserves to be released on regular bail. Accordingly, the petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

It is made clear that anything stated hereinabove shall not be construed to be an opinion on the merits of the case.

CRM No. 12288 of 2020

To be listed on 06.08.2020 for filing Power of Attorney.

July 06, 2020
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[SUDHIR MITTAL]
JUDGE

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