

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

CRM-M No.14864 of 2020
Date of Decision :07.07.2020

Ramkaran Pal alias Ramdhani

....Petitioner

versus

State of Haryana

....Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present: Mr. YashveerKharb, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to the outbreak of pandemic Covid-19.
2. Prayer in the petition under Section 439 Cr.P.C. is for grant of regular bail pending trial to the petitioner in case FIR No.388 dated 15.04.2019 under Section 346 of IPC (charges under Sections 363, 366, 376(2) of IPC and Section 6 of POCSO Act and Section 10 of Prohibition of Child Marriage Act, 2006, registered at Police Station, Chandni Bagh, District Panipat.
3. Learned counsel for the petitioner contends that the petitioner has been implicated in a false case and FIR has been registered on account of the marriage of the petitioner with the prosecutrix against the wishes of the parents of the prosecutrix. Learned counsel contends that as per the complaint lodged by the prosecutrix's mother in the Police Station on 15.04.2019, her daughter i.e. the prosecutrix, aged 18 ½ years was missing, whereupon FIR under Section 346 IPC was registered but during

investigation of the case on 29.05.2019, the School Leaving Certificate of the prosecutrix was produced as per which the age of the victim was recorded as 05.09.2002 and since she was a minor, Section 365 IPC was inserted in the case and on 29.05.2019, the prosecutrix was recovered from the petitioner from village Medipur, District Kosambhi, Uttar Pradesh. Accordingly, Sections 366, 366-A of IPC and Section 6 of POCSO Act was inserted. Challan has been presented and trial in the case is in progress after framing of the charges against the petitioner for offences punishable under Sections 363, 366, 376 (2) of IPC Section 6 of POCSO Act, Section 10 of the Prohibition of Child Marriage Act.

4. Learned counsel contends that both the prosecutrix as well as her mother were examined as PW4 & PW5 but they failed to support the case of the prosecution and did not incriminate the petitioner and that the age of the victim had also been wrongly mentioned by producing false School Leaving Certificate, besides the prosecutrix refused to get her medical examination conducted and also took up stand in her statement in Court that she had married the petitioner out of her own will and consent in Sheetla Dham Kada Temple. Learned counsel contends that 17 prosecution witnesses have been cited, out of which only 05 have been examined and the conclusion of the trial is likely to take considerable period of time and that no useful purpose would be served by keeping the petitioner in custody, especially when the victim as well as the complainant's mother have failed to support the prosecution case.

5. Learned AAG, Haryana, has not disputed the factual position as noted above and has only contended that directions be issued to the learned trial Court to conclude the trial, at the earliest.

6. I have considered the submission of learned counsel.

7. Admittedly, the prosecutrix has failed to support the prosecution version nor her mother i.e. complainant has supported the prosecution story.

8. Challan has been filed, charges have been framed and out of 17 prosecution witnesses, only 05 have been examined. Accordingly, no useful purpose would be served by keeping the petitioner in custody, especially during the prevailing conditions of corona virus pandemic. Accordingly the petition for regular bail is ***allowed***, the petitioner is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bond to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned with one local surety in order to ensure presence to face trial and subject to his not being required in any other case.

9. However, nothing stated hereinabove shall be construed as an opinion on the merits of the case.

10. Petition is allowed in the aforementioned terms.

(B.S. Walia)
Judge

07.07.2020

Rajneesh/Rajesh

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No