

Sr. No.208

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

**CRM-M-16042 of 2020 (O&M)
DATE OF DECISION : 03.09.2020**

Gurmeet Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

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

Mr. Luvinder Sofat, AAG Punjab.

Mr. Ashok Khunger, Advocate
For the complainant.
(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

1. Petitioner seeks regular bail in FIR No. 103 dated 14.09.2016, registered under Sections 376, 363, 366-A IPC and under Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012.

2. FIR in this case was registered on the complaint of grandfather of prosecutrix. It was informed to the police that his minor grand-daughter, since the intervening night of 13/14.09.2016, was missing. He apprised the police that petitioner enticed her minor grand-daughter on the pretext of marriage. Initially, the FIR was registered under Sections 363 and 366-A. The petitioner was arrested on 02.03.2020 and prosecutrix was recovered from his custody. Thereafter, the investigating agency incorporated Sections

376 IPC and Sections 3 and 4 of POCSO Act. Statement of prosecutrix was also recorded under Section 164 Cr.P.C.

3. Learned counsel for the petitioner submits that prosecutrix had herself joined the company of the petitioner on her own will. Not only that, she solemnized marriage with the petitioner. He submits that thereafter, the couple filed CWP No. 31821 of 2019 seeking protection qua their life and liberty, which was disposed of by this Court on 06.11.2019. He points out that out of their wedlock, the couple is having a child and the prosecutrix is presently also in a family way for the second time from her wedlock.

4. According to the counsel, in her statement under Section 164 Cr.P.C., the prosecutrix had given clean chit to the petitioner. Since the prosecutrix was/is claimed to be minor at the time of occurrence, petitioner was arrested. He further submits that trial will take long time to conclude as the Courts are working with restrictions due to Covid-19 pandemic and are taking up only urgent matters.

5. Learned State counsel, on the other hand, does not controvert the submissions of learned counsel for the petitioner. However, he along with learned counsel for the complainant opposes the bail plea on the ground that prosecutrix was minor at the time of occurrence and her consent is immaterial.

6. The petitioner is in custody since 02.03.2020. Indisputably, he has solemnized marriage with the prosecutrix and the couple is having a child from their wedlock. It is also not disputed that the prosecutrix is in family way for the second time from the same very wedlock. In her statement under Section 164 Cr.P.C. she has stated about leaving her house on her own will to live with the petitioner. Accordingly, given the over all

scenario, I am of the opinion that no useful purpose would be served by keeping petitioner in custody any more. That apart, investigation is over and trial is not likely to commence or conclude anytime soon in view of current pandemic scenario.

7. Taking wholesome view of the matter, but without expressing any opinion on the merits of the case, at this juncture, the petitioner is admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/ Duty Magistrate, as the case may be.

8. Petition stands allowed accordingly.

September 03, 2020
Jiten

(ARUN MONGA)
JUDGE

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