

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16504-2020

Date of Decision: 24.07.2020

Amandeep Khan @ Amandeep Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Durga Dutt, Advocate,
for the petitioner.

Mr. V.G. Sr. Jauhar, D.A.G., Punjab.

AMOL RATTAN SINGH, J. (ORAL)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

On 10.07.2020, the following order had been passed by this court:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

By this petition, the petitioner seeks the concession of 'regular bail', upon FIR no.71, dated 07.07.2019, having been registered against him, alleging therein the commission of offences punishable under Sections 363 and 366-A of the IPC and Section 8 of the Protection of Children From Sexual Offence Act, 2012.

Learned counsel for the petitioner submits that even as regards the allegations that the petitioner

abducted the daughter of the complainant, that is wholly a false allegation because upon being married to each other, the petitioner and the complainants' daughter had approached this court seeking protection of their lives and liberty vide CWP no.18630 of 2019, which was disposed of by this court on 11.07.2019, vide the order Annexure P-3.

He next submits that though the allegation in the FIR was that the complainants' daughter was 17½ years old at the time when she went with the petitioner (abducted by him), factually she was above 18 years at that stage.

Mr. Multani, learned DAG, Punjab, submits that as per his instructions from ASI Lakhwinder Singh of Police Station Bhadson, District Patiala, the date of birth of the daughter of the complainant has been found to be February 05, 2020, thereby making her more than 19 years of age even at the time that she had got married with the petitioner.

That being so, with no proof of age actually put up to this court from any school certificate of the complainants' daughter, but with Mr. Multani further submitting that as per his instructions, she is in fact living with the petitioners' family, the petitioner is ordered to be admitted to interim bail to the satisfaction of the CJM/Duty Magistrate concerned, till the next date of hearing before this court, by which the time the DSP, Nabha/Bhadson, will get the age of the complainants' daughter verified from the school that she last attended, and inform this court accordingly.

Adjourned to 24.07.2020.”

Today, learned State counsel has sought instructions and has in fact received an affidavit of the Deputy Superintendent of Police, Circle, Nabha, stating to the effect that as per inquiry conducted from the school that the alleged victim had attended, her date of birth was found to be 05.02.2002, with the date of her having eloped with the petitioner being 06.07.2019, thereby making her about 17 years and 05 months old at that time.

Obviously, therefore, the contention of learned counsel for the petitioner on the last date of hearing, that the girl was above 18 years of age, has been found to be false, as per the investigation carried out.

However, learned counsel for the State submits that the girl has been found to be residing with the parents of the petitioner and she refused to get herself medically examined, further also supporting the case of the petitioner to the effect that she has joined his company voluntarily.

Having considered the above, it is also equally obvious that as of today she is about 18½ years old, i.e. she has reached the age of majority and consequently, the age to exercise discretion as regards her marriage to the petitioner, with the contention on the last date of hearing being that they had in fact got married to each other.

Consequently, this petition is allowed. The petitioner shall be admitted to bail upon his furnishing adequate bail bonds and surety bonds to the satisfaction of the learned trial court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, in view of the fact that, so far at least as per the investigation carried out, the girl was found to be less than marriagable age, on the date of her marriage, even in terms of the provisions of the Prohibition of the Child

Marriage Act, 2006, therefore, upon further investigation, if her age is verified to be actually below 18 years of age on the date that she allegedly got married to the petitioner, proceedings under the relevant provisions of that Act (of 2006), shall be initiated against all concerned, the offence of child marriage being a cognizable offence, in terms of Section 15 of the said Act.

July 24, 2020
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes