

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

**CRM-M-17885 of 2020 (O&M)
DATE OF DECISION : 13.10.2020**

Samander

...Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Kunal Dawar, Advocate,
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

This is a petition for grant of regular bail to the petitioner in case FIR No. 112 dated 25.05.2019 under Sections 363/366-A/34 IPC registered at Police Station Bahin, Palwal, Haryana. (Challan presented under Sections 363/366-A/34 IPC and Section 4 of POCSO Act, 2012).

2. Per FIR, petitioner along with others enticed the daughter of complainant. She was a minor at the time of occurrence.

3. Learned counsel for the petitioner contends that petitioner has been falsely implicated in the case. Matrimonial alliance of the prosecutrix was fixed with the petitioner in October, 2017. However, in 2019, father of the prosecutrix had a fight with the father of petitioner over some issue and he did not want to go ahead with the marriage.

4. He further submits that prosecutrix in her statement recorded under Section 164 Cr.P.C has stated that she went away on her own free will

and,petitioner did not commit any wrong act with her. She herself gave her age as 18 -½ years. Thereafter, statement of the prosecutrix was also recorded before the Child Welfare Committee, Palwal on 17.06.2019, wherein also she reiterated her version as recorded in the statement made under Section 164 Cr.P.C on 16.06.2019.

5. Learned counsel further contends that prosecutrix refused to get herself medically examined on the ground that no wrongful act has been done with her by the petitioner. However, she was still medically examined and no injuries were found on her person. The petitioner is in custody since 17.06.2019. Investigation is complete. Challan has been presented. There is no headway in the trial due to Covid-19 pandemic.

6. On the other hand, learned State counsel opposes the bail plea. He argues that allegation against the petitioner is serious in nature. However, he does not controvert that in her statement under Section 164 Cr.P.C., the prosecutrix stated that she left her home on her own volition. It is also not controverted that in medical examination of the prosecutrix, no injury was found on her person to suggest any wrongful act was done with her. He also admits that the trial is held up due to Covid-19 pandemic.

7. Having heard learned counsel for the petitioner as also learned State counsel, and keeping in the view that the prosecutrix herself deposed twice; once before the Magistrate and once before the Child Welfare Committee that she went on her own volition, it is a fit case for bail. That apart, there is no allegation of any sexual activity. The prosecutrix refused to undergo medical. She stated her age to be above 18 years.Despite her refusal, medical examination was carried out which too does not reflect any injury of the kind to suggest that she was forced into any sexual activity. Investigation in

the case is already complete. Challan has been filed. No useful purpose would be served by keeping the petitioner in further preventive custody. The trial is not likely to commence or conclude any time soon due to Covid-19 pandemic since the Courts are working in a restricted manner and taking up only urgent matters.

8. In the premise, the instant petition is allowed. Petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned.

OCTOBER 13, 2020
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(ARUN MONGA)
JUDGE

Whether speaking/reasoned : **Yes/No**

Whether reportable : **Yes/No**