

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

Criminal Misc.-M-21339-2020 (O&M)

Date of Decision: October 13, 2020

Sanjay Kumar @ Gunjan

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Rajesh Kumar, Advocate,
for the petitioner.

Mr. Manpreet Singh Nagra, AAG, Punjab.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.52 dated 10.05.2019, under Sections 363, 366, 376 IPC, 1860 and Section 6 of POCSO Act (added later on), registered at Police Station, Mahilpur, District Hoshiarpur. The petitioner is in custody since his arrest on 13.06.2019.

The present FIR was registered on the statement of complainant Paramjit Kaur, wherein it was stated that her niece, i.e., the prosecutrix was residing with them for the last twelve years and her date of birth is 19.10.2001. On 14.04.2019 at about 1.00 PM, she left the house and was of the firm belief that Sanjay Kumar had enticed/allured her. On these broad allegations, the present FIR was registered.

Learned counsel for the petitioner contends that complainant's niece, namely, Priya had married the petitioner willingly, though she was minor and, therefore, the marriage between them, at best, was voidable. He has invited the attention of the Court to the photographs of the prosecutrix with the petitioner at different places. He further submits that even in her

statement recorded under Section 164 Cr.P.C., no allegation of rape has been made by her and, therefore, the subsequent addition of offences punishable under Section 376 IPC and POCSO Act may not be justified. According to him, the trial is likely to consume considerable time, therefore, the further detention of the petitioner may not be necessary. He prays for grant of regular bail, during the pendency of the trial.

On the other hand, learned State counsel assisted by ASI Manna Singh has opposed the prayer on the ground that the petitioner took away the girl, who was recovered from Bihar. It is further pointed out that after framing of charges, three witness have been examined, including the complainant and the prosecutrix.

Considering the above background and the fact that the material witnesses have been examined, this Court does not find any reason to decline the prayer. This Court is cognizant of the fact that the outbreak of pandemic COVID-19 in the region may delay the conclusion of trial. The petitioner is presently confined in judicial custody since 13.06.2019 and his further detention may not be necessary for any useful purpose, therefore, this Court does not find any reason to decline the prayer.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Hoshiarpur.

October 13, 2020
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No