

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

**CRM-M-18531 of 2020 (O&M)
DATE OF DECISION : 30.07.2020**

Jagjit Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr.P.S.Dhaliwal, Advocate,
for the petitioner.

Mrs. Bhavna Gupta, DAG Punjab.
(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

1. The petitioner is seeking regular bail in FIR No. 44 dated 09.05.2019, registered under Sections 376, 363, 366-A IPC and Sections 4 and 6 of the Protection of Children from Sexual Offence Act, 2012, Police Station Ajitwal, District Moga.

2. It is the case of the prosecution that on 09.05.2019, complainant Raju Singh made a complaint to the police and informed that his daughter, aged about 17 years, who had gone to school did not reach school. Her whereabouts could not be located despite search. He apprehended that she was enticed away by the petitioner on the pretext of marriage. Initially, FIR was registered under Sections 363, 366-A and Sections 4 and 6 of the POCSO Act. However, on recovery of prosecutrix, offence under Section 376 IPC was added. The petitioner is stated to be in custody since 21.06.2019.

3. Learned counsel for the petitioner argues that petitioner is a youngster of 19 years. Both, the prosecutrix as well as petitioner were having

love affair and relationship was consensual. The present FIR is an outcome of misunderstanding, which has now been resolved vide compromise dated 06.02.2020(Annexure P-2). He further points out that neither the complainant nor the prosecutrix had supported the prosecution case during trial and they have been declared hostile. According to him, only official witnesses are remained to be examined and trial is not likely to conclude soon due to Covid-19 pandemic.

4. On the other hand, learned State counsel opposes the bail plea. She, however, submits that she has no information about hostility of prosecution witness or compromise having been arrived at between the parties. According to her, prosecutrix was minor and considering the gravity of offence, the petitioner is not entitled to bail.

5. The petitioner is in custody since 21.06.2019. The plea of consensual relationship shall be adjudicated only during the trial. Taking into account the factum that complainant and the prosecutrix have not supported the prosecution case, I am of the considered opinion that no useful purpose would be served by keeping the petitioner behind the bars any more. Especially, when further trial is held up due to covid-19 pandemic and Courts are working with restrictions, taking up only urgent matters. Without expressing any opinion on the merits of the case, petition is allowed. Petitioner shall be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of Chief Judicial Magistrate/ Duty Magistrate, Moga, as the case may be.

JULY 30, 2020
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(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No