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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19318-2020 (O&M)
Date of decision: 04.09.2020

Raju Singh alias Rajpal Singh

.....Petitioner

V/s.

State of Punjab

.....Respondent

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Sandeep Siwach, Advocate, for the petitioner.

Mr. Gaurav Garg Dhuriwala, Senior Deputy Advocate
General, Punjab.

Sanjay Kumar, J.

CRM-21912-2020

This application is ordered and the amended Memorandum of
Parties is taken on record.

CRM-21906-2020

This application is ordered and Annexure A-1 affidavit is taken
on record.

CRM-M-19318-2020

The petitioner is the accused in FIR No. 159 dated 07.09.2019
on the file of Police Station Boha, District Mansa, registered under Sections
363 and 366-A IPC (Section 376 IPC and Sections 3 and 4 of the Protection
of Children from Sexual Offences Act, 2012, added later on). By way of this
petition, he seeks grant of regular bail.

The case of the prosecution was that the petitioner lured away the complainant's daughter, a minor, on the pretext of marriage. The girl was found in the custody of the petitioner and thereafter, Section 376 IPC and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 were added.

The averments in this bail application are to the effect that the petitioner and the girl were in love and they got married. The complainant, being the mother of the girl, was stated to have compromised the matter with the petitioner's family. The learned State counsel was therefore asked to verify and ascertain the factum of the alleged compromise.

Thereupon, Baljinder Singh Pannu, Deputy Superintendent of Police, Sub Division Budhladha, District Mansa, filed a short reply. Therein he stated that the matter was looked into by the Station House Officer, Police Station Boha, District Mansa, and as per the report furnished by him, the complainant had stated that her daughter had willingly married the petitioner after leaving home on 06.09.2019. She had further stated that she talked to the family members of the petitioner and all issues were resolved. According to her, the girl was now residing at her in-laws' house. The date of birth of the girl was stated to be 14.01.2004.

The petitioner was arrested on 25.10.2019 and the challan was filed on 24.02.2020. The matter is stated to be pending before the learned Sessions Judge, Mansa, for framing of charges.

Though the girl seems to be aged just over 16 years as on date, it may be noted that Section 11 of the Hindu Marriage Act, 1955, does not render the marriage void on the ground that the bride was less than 18 years

of age at that time. Further, Exception 2 to Section 375 IPC states to the effect that sexual intercourse by a man with his wife, the wife not being under 15 years of age, would not constitute rape. Therefore, as the girl was over the age of 15 years by the time she left home on 06.09.2019 and she admittedly got married to the petitioner, the aforestated Exception 2 applies and Section 376 IPC would not be attracted.

Given the admitted fact that the parties have settled the issue and the girl is now stated to be living with the parents of the petitioner as his wife, there is no purpose served in pursuing this case. Further, as the complainant herself gave an affidavit confirming the compromise, no grounds are made out for continuing the incarceration of the petitioner.

The petition is accordingly allowed directing the release of the petitioner on regular bail in FIR No. 159 dated 07.09.2019 on the file of Police Station Boha, District Mansa, upon his furnishing a personal bond for a sum of Rs. 10,000/- along with one surety for a like sum to the satisfaction of the Illaqa/Duty Magistrate concerned.

(SANJAY KUMAR)
JUDGE

04.09.2020

rakesh

whether speaking/non speaking

: Yes/no

whether reportable/non reportable

: Yes/no