

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

**CRM-M-19811-2020 (O&M)
Date of Decision:07.08.2020**

Santosh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Navmohit Singh, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

TEJINDER SINGH DHINDSA J.(Oral)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

Petitioner seeks benefit of regular bail pending trial in FIR No.450 dated 25.11.2019 under Sections 363, 366A, 376 (2) (v) IPC, Section 6 of POCSO Act and Section 3 (2) (v) of SC and ST (Prevention of Atrocities) Act 1989, registered at police station City Hisar, District Hisar.

Counsel for the parties have been heard.

In a nutshell case of the prosecution is that the present petitioner enticed a minor girl from home and then repeatedly raped her.

Counsel representing the petitioner would submit that if at all it is a case of consensual sex. As per initial version recorded of the victim as also the statement recorded under Section 164 Cr.P.C. there are no allegations of rape.

Further contended that an ossification test had been conducted on the victim and as per which her age has been opined to be 17 to 19

years. Reliance is placed upon a judgment of Delhi High Court in **Mahabir Prasad Vs. State 1999 (1) Crimes 1**, to contend that if in the ossification test there be a difference of two years, the benefit of doubt ought to go in favour of the accused.

It would be a moot point as to whether any offence under the Protection of Children from Sexual Offences Act 2012, is made out in the present case.

Petitioner has been in custody since 30.11.2019.

Investigation in the case is complete and the challan already stands presented.

Learned State counsel apprises the Court that no prosecution witness has been examined till date.

Trial would take time to conclude particularly in view of the current Covid-19 situation.

In view of the above, petitioner is held entitled to the benefit of bail.

Petitioner be enlarged on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, Hisar.

It is, however, clarified that the observations made by this Court while recording the contentions advanced would have no bearing on the merits of the trial and are only confined to the prayer made on behalf of the petitioner seeking benefit of regular bail.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

August 07, 2020

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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No