

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

**CRM-M-20712-2020
Date of decision : 02.09.2020**

Aarif

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Munfaid Khan, Advocate for the petitioner.

Mr. Anant Kataria, DAG, Haryana.

(The proceedings are being conducted through
Video Conferencing as per instructions).

G.S.SANDHAWALIA, J.(ORAL)

Petitioner, in a petition filed under Section 439 Cr.P.C., seeks grant of regular bail in FIR No.72 dated 13.04.2019, under Section 376 of the IPC and Sections 4,6 of The Protection of Children from Sexual Offences Act, 2012, registered at Police Station Dhauj, District Faridabad.

Counsel for the petitioner submits that petitioner is in custody since 06.09.2019. He also submits that the victim had run away from her house and resided with the petitioner on her own volition. She was unhappy in her house as her parents had expired and it is not for the first time that she had left the house. It is submitted that petitioner himself is 19 years old and, therefore, merely because the victim was below 18 years at that point of time, the benefit of the regular bail is not likely to be denied to him.

Perusal of the FIR which was lodged by the victim would go to show that she was a resident of Aligarh and had arrived at Delhi on account of her disturbed domestic condition where she had been staying with one Shahbaj who was considering her as his sister. She had been taken to hospital for medical examination where it transpired that she was pregnant. She had told the police that she had run away from her house three months ago and met the petitioner at New Delhi Railway Station. He had taken her to his house at Alampur Ballabhgarh, Haryana and had physical relations with her for three months due to which she had become pregnant.

Her statement under Section 164 Cr.P.C. was also recorded on 08.05.2019 Annexure P-2 before the Court wherein she stated that in August she had come to New Delhi by boarding a train and was weeping at the Railway Station where the petitioner accosted her and asked her the reason for weeping and also took her to his house. Initially he had asked her to perform Nikah also but later on he refused. He had physical relations with her for three months during the period she resided with him. Thereafter she went to her house at Aligarh and resided there for four months. Then she again came to Delhi and met Shahbaj from where she had been taken to the police and thereafter her abortion was done and that she did not want to go to her house.

This Court on 11.08.2020 had directed that the victim be examined since it was the case of the petitioner that out of 33 witnesses, 6 had been examined but the victim had not been examined. The Additional Sessions Judge, Fast Track Court, Faridabad has made special efforts as such to examine the witnesses inspite of the prevailing circumstances. This Court appreciates the efforts put in by the Additional Sessions Judge.

A perusal of the statement of the victim recorded on 28.08.2020 before the trial Court would go on to show that she had stated that the relationship with the petitioner was with her consent and she did not want to prosecute the petitioner further and neither wanted to take any legal action against him. She had also stated that when she had physical relations with the petitioner her age was around 17 years.

Resultantly, keeping in view the statement of the victim as such and the fact that the petitioner is also in his teens, this Court is of the opinion that the benefit of regular bail should be extended to the petitioner. The trial will take considerably long time to conclude in view of the instructions issued due to COVID-19 pandemic and also the fact that he has undergone detention for almost a year. The apprehension that he would as such threaten or coerce the victim no longer remains in view of the peculiar circumstances of the case.

In such circumstances the petition for regular bail is allowed and the petitioner is directed to be released on bail to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate/Illaqa Magistrate, Faridabad.

(G.S.SANDHAWALIA)
JUDGE

02.09.2020
sunita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No