

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

212

CRM-M No.22104 of 2020 (O&M)

Date of Decision: August 14th, 2020

Nonu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Aman Bansal, Advocate
for the petitioner.

Ms. Tanisha Peshawaria, Deputy Advocate General, Haryana.

(PROCEEDINGS THROUGH V.C.)

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court for grant of regular bail in FIR No.162 dated 12.03.2020 registered under Sections 363, 366-A IPC (deleted during investigation and challan presented under Sections 376 IPC and Section 4 of the POCSO Act) at Police Station Samalkha, District Panipat.

Counsel for the petitioner, on the basis of the FIR, contends that the allegation against the petitioner is that he has enticed the daughter of the complainant, who is a minor and had been threatening the complainant. Petitioner had enticed the daughter of the complainant on the pretext of marriage. His contention is that these allegations, as found mentioned in the FIR, have not been supported by the prosecutrix as is apparent from her statement, which she had given on 13.03.2020 before the Legal Aid Counsel, which is duly signed by the Investigating Officer as well, copy whereof has been appended as Annexure P-2. In the said statement, it has been specifically mentioned by prosecutrix that the petitioner had not done any wrong with her. Similarly the prosecutrix made a statement under

Section 164 Cr.P.C. before the Sub Divisional Judicial Magistrate, Samalkha, the same day i.e. 13.03.2020, where again nothing has been mentioned by her with regard petitioner having committed any sexual assault on her. Reliance has also been placed upon the medico-legal report of the prosecutrix, where again allegations against the petitioner with regard to the offence under Section 376 IPC having been committed by him are not substantiated. Even the report of FSL, Madhuban, has not been produced on record despite the challan having been presented. He, therefore, contends that when the case of the prosecution falls flat, the petitioner, who is in custody since 14.03.2020, cannot be indefinitely allowed to continue in jail because of the prevailing circumstances, where the trial is not proceeding in the matter. Prayer has thus been made for grant of regular bail.

Learned counsel for the State, on the other hand, asserts that the petitioner has enticed a minor girl and, therefore, does not deserve the concession of bail. On the other factual aspects, the counsel could not dispute the same.

Having considered the submissions made by the counsel for the parties and on going through the records available, prima facie it seems that the prosecutrix does not support the case of the prosecution, rather the evidence, as has been now made available, would also not support the case of the prosecution to the hilt. Challan stands presented, with the trial not proceeding because of the prevailing circumstances, the present petition is accepted.

Petitioner is ordered to be released on bail to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, Panipat.

Any observations made hereinabove are for the purpose of disposal of the present petitions alone and shall have no bearing on the merit of the case during the trial in any manner.

August 14th, 2020

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No