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

CRM-M No. 22474 of 2020
Date of Decision: 13.10.2020

Darshan Singh

-Petitioner

Vs

State of Haryana

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Salil Dev Singh Bali, Advocate,
for the petitioner.

Mr. Rajat Gautam, D.A.G., Haryana.

RAJ MOHAN SINGH, J. (ORAL)

The case has been taken up for hearing through video-conferencing.

Petitioner in his second attempt seeks grant of regular bail under Section 439 Cr.P.C. in case bearing FIR No.188 dated 04.06.2019 under Sections 354-A, 354, 451, 509 IPC and under Section 10 of POCSO Act registered at Police Station Rania, District Sirsa.

CRM-M No.10346 of 2020 was got dismissed as withdrawn vide order dated 10.06.2020.

Trial of the case has not made any progress since then.

Allegations are that on 31.05.2019 at about 12'o

clock, petitioner climbed up the wall of the house of the prosecutrix and came to her room. He embraced her and started kissing her. She made an alarm and the accused ran away.

Learned counsel for the petitioner submits that offence under Section 10 of POCSO Act is not attracted as the age of the prosecutrix is found to be more than 12 years as per birth certificate attached with the challan. The date of birth of the prosecutrix is stated to be 09.12.2006.

The occurrence took place on 31.05.2019 and the FIR came to be registered on 04.06.2019.

Offences except Section 10 of POCSO Act are bailable in nature.

According to learned counsel for the petitioner, offence under Section 10 of POCSO Act would remain debatable in view of birth certificate of the prosecutrix.

Learned State counsel, on the other hand, opposed the prayer on the ground that determination of age would be subject to judicial scrutiny by the trial Court.

Petitioner is in judicial custody since 08.08.2019.

Trial of the case has not made any progress after withdrawal of the first petition.

In view of above and owing to the situation arising out of pandemic COVID-19 and without meaning anything on the merits of the case, the petition is allowed. Petitioner is directed to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an opinion on the merits of the case.

13.10.2020
Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No