

CRM-M-22134-2020

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(PROCEEDINGS THROUGH V.C.)

CRM-M-22134-2020

Date of Decision: August 14th, 2020

Hirdesh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present Mr. Surinder Singh Virk, Advocate
for the petitioner.

Ms. Tanisha Peshawaria, DAG, Haryana.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court for grant of regular bail by filing this petition under Section 439 of the Code of Criminal Procedure, 1973, in FIR No.671, dated 27.10.2018, registered at Police Station Quilla, District Panipat, under Sections 363, 366-A, 376 (2) and 376 (3) of the Indian Penal Code and Sections 4 and 6 of POCSO Act.

It is the contention of the learned counsel for the petitioner that the petitioner was few months more than 16 years of age at the time of alleged commission of the offence. His assertion is that the allegation against the petitioner are not substantiated. In this regard, he has placed reliance upon the statement of the prosecutrix recorded under Section 164 of the Code of Criminal Procedure. On the basis of the said statement, he contends that the prosecutrix has not supported the case of the prosecution

for which the challan has been presented. Assertion has also been made that the petitioner is in custody since 31.10.2018, with total fourteen prosecution witnesses, out of which only two have been examined, with the trial in the prevailing circumstances being held up firstly, because of the application preferred by the petitioner for declaring him as juvenile and secondly, because of the prevailing pandemic situation. He, therefore, prays that the concession of regular bail be granted to the petitioner.

Learned counsel for the State, on the other hand, although could not dispute the factual assertions made by the counsel for the petitioner, however, she asserts that the victim was of the tender age of 13 years and petitioner had not only enticed the victim but has also proceeded to aggravate the said offence. She, therefore, prays that the concession of regular bail be not granted to the petitioner.

I have considered the submissions made by the learned counsel for the parties which have been referred to above and keeping in view the fact that the petitioner was just more than 16 years of age at the time of alleged commission of offence as per the certificate (Annexure P-3), with the statement of the prosecutrix under Section 164 of the Code of Criminal Procedure and the petitioner having been in custody from 31.10.2018 along with the fact that the proceedings in the trial Court being held up because of the prevailing pandemic situation especially when out of total fourteen prosecution witnesses, only two have been examined till date, this criminal miscellaneous petition is allowed. Petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the

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trial Court/Chief Judicial Magistrate/Duty Magistrate, Panipat.

Any observation made herein-above shall have no bearing on the merits of the case during the trial in any manner.

August 14th, 2020
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

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