

CRM-M-23527-2020 (O&M)

Date of decision: 22.09.2020

Deepak @ Raja

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**Present:** Mr. Dinesh Sharma, Advocate
for the petitioner.Mr. B.S. Virk, DAG, Haryana
for the respondent-State.**FATEH DEEP SINGH, J.(ORAL)**

The petitioner-Deepak @ Raja, has come up in this first regular bail application under Section 439 Cr.P.C. in a case bearing FIR No. 64 dated 29.01.2020 under Section 4 of the POCSO Act registered at Police Station City Yamuna Nagar.

The allegations against the petitioner have come about by the mother of the girl who claims to be aged around 17 years 11 months and 13 days. It is alleged that on 28.01.2020, in the evening, the accused-Deepak @ Raja, caught hold of the prosecutrix while she was going and forcibly took her to the vacant house where she was ravaged and subsequently, the present case was got registered. The girl was medically examined and so her statement under Section 164 Cr.P.C. was recorded.

Learned counsel for the petitioner *inter alia* contends that the girl at the time of the alleged occurrence was major as per her date of birth (13.02.2001) and has placed on record the copies of the school certificate. It is claimed that there is no medical evidence to corroborate the allegations of rape and that the photographs placed on the record were relied by the counsel who established that the girl who is a major was in a relationship with the petitioner and has been going about at public places with him.

The learned State counsel has strongly opposed the grant of bail on the grounds of heinousness of the crime but did not seriously controvert the proof of age of the girl relied upon by the petitioner's side.

Be so as it may, the attested copies of the school certificates placed on the record shows the date of birth of the girl to be 13.02.2001 and thus, earlier at the time of this occurrence, even otherwise, if the claim of the State is to be seen that the date of birth of the girl is 13.02.2002, even then, she is almost 17 days less than age of majority. There is no medical evidence to corroborate the allegations of rape and rather the photographs placed on the record are illustrative of this relationship to be a consensual one.

Without adverting on to the merits of the case and keeping in view the period of incarceration undergone by the petitioner and there is every likelihood that the trial is not likely to be concluded in the near future and in view of this pandemic situation,

this Court deems it a fit case to allow the present petition. Accordingly, he is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned.

The petition stands disposed off accordingly.

22.09.2020
Neha

(FATEH DEEP SINGH)
JUDGE

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