

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

CRM-M-25493-2020

Date of Decision:28.09.2020

Mahabir Singh

.....Petitioner

Vs.

State of Haryana

....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr. D.G.Dhindsa, Advocate,
for the petitioner.

Mr. Deepak Bhardwaj, DAG, Haryana.

AMOL RATTAN SINGH, J. (Oral)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

By this petition, the petitioner seeks the concession of 'anticipatory bail', under the provisions of Section 438 Cr.P.C., upon FIR No.01, dated 02.01.2020, having been registered at Police Station Ismailabad, District Kurukshetra, alleging therein the commission of offences punishable under Sections 354-A, 452 and 506 of the IPC and 8 of the POCSO Act.

On September 04, 2020, the following order had been passed:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

Learned counsel for the petitioner submits that the petitioner is actually only 17 years old known as per his birth certificate (Annexure P-2), which shows his

date of birth to be February 28, 2003.

Learned State counsel, on the other hand, submits that the petitioner himself also disclosed his age to be 21 years old and therefore, if he has to be declared to be a juvenile, it would naturally be for him to move an appropriate application before the competent authority.

He further submits that in fact earlier also, qua the same girl, another FIR has been registered against the petitioner and after he was admitted to bail in that case, the second FIR, i.e. the one in question, has been registered, alleging therein the commission of offences punishable under Sections 354-A, 452, 506 of the IPC as also under the provisions of Section 8 of POCSO Act.

In the present case, the allegation being of the petitioner having teased the girl who is also stated to be 17 years old, the petitioner is ordered to be admitted to interim bail to the satisfaction of the learned trial court/Chief Judicial Magistrate/Duty Magistrate concerned, till the next date of hearing before this court.

In the meanwhile, the petitioner, naturally, would be at liberty to file any application before the appropriate authority as regards his age.

His age be also verified by the investigating agency, from the school where he last studied.

Adjourned to 28.09.2020.”

Today, upon query learned State counsel, he, on instructions from SI Pawandeep Kaur of Police Station Ismailabad, Kurukshetra, submits that he has been sent a copy of the birth certificate of the petitioner by way of a “Whatsapp” communication, showing his date of birth to be February 01, 2003, thereby making him to be slightly less than 17 years of age as on the date of the occurrence, that being January 01, 2020.

Keeping in view the above, without making any comment on the actual merits of the case, or even on the age of the petitioner (with the petitioner already having filed an appropriate application before the competent court asking that he be declared to be a juvenile), and in view of the observations already made by this court in the order dated September 04, 2020,

the petition is allowed, with the order passed on that date, admitting the petitioner to interim bail, made absolute, on the same terms and conditions.

September 28, 2020

dharamvir/

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO