

211

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

**CRM-M-27820-2020
Date of Decision: 18.09.2020**

Jamshad

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Kuldeep Jangam Swami, Advocate,
for the petitioner.
Mr. Anmol Malik, DAG, Haryana.

SUDIP AHLUWALIA, J. (ORAL)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure by the petitioner, seeking regular bail in case FIR No.764 dated 29.09.2019, under Section 6 of the POCSO Act, Sections 363, 366-A, 376(2) and 376(3) of the IPC & Section 10 of the Prohibition of Child Marriage Act, registered at Police Station Model Town, Panipat, District Panipat.

2. The allegation against the petitioner is that he had kidnapped the complainant's daughter and committed rape upon her, apart from marrying her in violation of the Law, on account of which, the present FIR was drawn up under the aforesaid Sections.

3. The petitioner was arrested on 09.01.2020 and has remained in detention thereafter.

4. The prosecutrix was subsequently recovered and in her statement

before the Ld. Magistrate, recorded under Section 164 of the Cr.P.C., stated that she had gone with the petitioner of her own accord as she wanted to marry him.

5. Ld. Counsel for the petitioner, in this regard, submits that the prosecutrix, being a Muslim girl, is competent to enter into contract of her own marriage on attaining the age of puberty. It is further submitted that by now, even the complainant/father of the prosecutrix has agreed to the proposed marriage between his daughter and the petitioner, but could not appear before the Ld. District Court for giving any statement in favour of the petitioner, since the Courts are not functioning normally, on account of the prevailing COVID-19 Pandemic.

6. In such circumstances, considering the long detention undergone by the petitioner in the present case and the fact that his detention is no longer required in the interest of investigation, since challan against him has already been submitted, and without commenting any further on the merits of the present case as a whole, as also considering the fact that the trial is likely to take its own substantial time to complete in view of the ongoing COVID-19 Pandemic, the prayer of the petitioner for releasing him on regular bail is allowed and he is ordered to be released on bail, subject to the appropriate terms and conditions to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

7. Disposed off.

18.09.2020

Apurva

(SUDIP AHLUWALIA)
JUDGE

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