

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

205

**CRM-M-27406-2020 (O&M)
Decided on : 14.12.2020**

Kuldeep

. . . Petitioner(s)

Versus

State of Haryana and another

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. V.P. Sangwan, Advocate
for the petitioner(s).

Mr. Arun Beniwal, DAG, Haryana
assisted by ASI Sajjan.

Ms. Anu Bala Garg, Advocate
for respondent No.2 - complainant.

MANJARI NEHRU KAUL, J. (Oral)

The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 257, dated 02.04.2020, under Sections 363, 366 IPC (later on added Section 376(3) IPC and Section 6 of the POCSO Act, 2012 and Section 9 of the Prohibition of Child Marriage Act, 2006), registered at Police Station Sadar Bhiwani, District Bhiwani.

Learned counsel for the petitioners *inter alia* contends that the petitioner, who has been in custody since 31st May, 2020, has been falsely implicated in the case in hand, which is evident from the fact that even as per the statement recorded under Section 164 Cr.P.C. of the prosecutrix, she categorically stated that she left her home on 02nd April, 2020 and thereafter, got married to the petitioner. Not only this, it was also stated by her that she did not want to return to her parental home and wanted to continue residing at her matrimonial home. It has been further submitted by the learned counsel for the petitioner that as per the Ossification Test Report dated 01.09.2020

(Annexure P-5) conducted on the prosecutrix, was a major aged 19 years.

Learned counsel for the petitioner has also invited the attention of this Court towards the statements of the prosecutrix and her mother recorded before the trial Court (appended as Annexures P-10 & P-11, respectively), wherein, both the prosecutrix/victim and her mother, did not support the case of the prosecution and were declared hostile.

Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions from ASI Sajjan, has conceded that both the prosecutrix/victim and her mother did not support the case of the prosecution and were declared hostile. Further, he has submitted that as per the birth certificate of the prosecutrix, issued by the Health Department, her date of birth is 04th July, 2004, therefore, she was minor on the date of alleged occurrence.

Heard.

In view of the submissions made by learned counsel for the parties, I deem it a fit case for grant of the concession of regular bail to the petitioners, as the trial is unlikely to conclude in the near future, more so, in the prevailing conditions due to the outbreak of COVID-19. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of trial Court/Duty Magistrate. However, it is made clear that anything observed hereinabove shall not be construed as an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

December 14, 2020

J.Ram

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