

Sr. No.208

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

**CRM-M-29620 of 2020 (O&M)
DATE OF DECISION : 29.09.2020**

Uttam Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Karandeep S. Sidhu, Advocate,
for the petitioner.

Mr. P.S. Walia, AAG Punjab.
(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

1. Petitioner seeks regular bail in FIR No. 108 dated 03.06.2017, registered under Sections 376, 363, 366-A IPC and under Section 4 of the Protection of Children from Sexual Offences Act, 2012, Police Station Baghapurana, District Moga.

2. FIR in this case was registered on 03.06.2017 pursuant to a complaint of mother of prosecutrix. Her minor daughter, aged 17 years and 6 months was stated to be missing since the night of 01.06.2017. Whereabouts could not be ascertained despite concerted search. She apprised the police that petitioner enticed her minor daughter on the pretext of marriage. Later, prosecutrix was recovered. Her statement under Section 164 Cr.P.C. was also recorded. Initially, the FIR was registered under Sections 363 and 366-A.

However, when the challan was filed offence under Section 376 IPC and 4 of

POCSO Act were added. Initially, the petitioner was declared a proclaimed offender and was arrested on 26.10.2018 and since then he is in custody.

2. Learned counsel for the petitioner has placed on record copy of statement of prosecutrix recorded under Section 164 Cr.P.C., which is taken on record. He submits that prosecutrix had herself joined the company of the petitioner, a young boy of 22 years, on her own free will. They travelled together at many religious places for about three months and relationship was consensual. The petitioner and prosecutrix wanted to marry each other but they could not, as prosecutrix was less than 18 years of age at the relevant time. He further submits that all prosecution witnesses have already been examined. There is thus no apprehension that petitioner will influence any of the witnesses. The petitioner is in custody since 26.10.2018 and no useful purpose would be served by keeping the petitioner behind the bars anymore. According to him, the petitioner is not involved in any other case.

3. Learned State counsel, on the other hand, does not controvert that all the witnesses have been examined and the case is at the stage of defence evidence. However, he opposes the bail plea on the ground that prosecutrix was minor at the time of occurrence and she has supported the prosecution in her statement recorded during trial. He admits that the petitioner is not involved in any other case.

4. The petitioner is in custody since 26.10.2018. The above submissions made by learned counsel for the petitioner about consensual relationship shall be adjudicated at the trial, which is presently held up due to Covid-19 pandemic and there is no likelihood of conclusion thereof anytime soon. Courts are currently working with restrictions due to Covid-19 pandemic and are taking up only urgent matters. The petitioner is not involved

in any other case and he is in custody for about 1 year and 11 months. The witnesses have already been examined and thus, there is no occasion with the petitioner to influence or put pressure upon them. Accordingly, given the over all scenario, I am of the opinion that no useful purpose would be served by keeping petitioner in custody any more.

5. Taking wholesome view of the matter, but without expressing any opinion on the merits of the case, at this juncture, the petitioner is admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/ Duty Magistrate, as the case may be. The petitioner will not try to contact the prosecutrix or her family members. In case of any violation, prosecution shall be at liberty to seek cancellation of bail granted to the petitioner.

6. Petition stands allowed accordingly.

September 29, 2020
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(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No