

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

211 - CRM-M-31844-2020 (O&M)

Date of Decision: 13.10.2020

Sandeep @ Sunny

... Petitioner

VS.

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. Hemen Aggarwal, Advocate for the petitioner

Mr. Rajiv Goel, DAG Haryana

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video conferencing on account of lockdown due to outbreak of COVID-19 pandemic.

The petitioner Sandeep @ Sunny who is stated to be aged 31 years has filed the present petition *inter alia* with a prayer for grant of regular bail. He has been allegedly involved in case FIR No.681 dated 26.09.2019 under Sections 376/506 IPC and Sections 4/8/10 (Section 6 added later on) of POCSO Act, 2012, registered at PS Gharaunda, Karnal.

Learned counsel for the petitioner based upon the pleadings submits that earlier a compromise was reached between the parties and subsequently a zero FIR was lodged in Mumbai. He submits that POCSO Act has been wrongly attracted as in fact the alleged prosecutrix is 19 years of age. He submits that he got married to Anju – the elder sister of the prosecutrix on 18.11.2012 and has two children from the said marriage. However, because of some differences they are staying away from the petitioner since last more than one year.

Learned State counsel, on instructions from SI Jasbir Singh, submits that investigation is complete; challan in this case was presented on

22.12.2019; charges have been framed on 13.03.2020 and there are a total of 13 witnesses out of which none have been examined till date. The next date of hearing before the trial Court is fixed for 17.11.2020.

On a further question put by this Court, learned State counsel on instructions, submits that initially when the prosecutrix had appeared in the police station, her age was allegedly stated to be 13 years, however, when she was presented for medical examination as per the medical advice her age was stated to be between 17-19 years.

Faced with this, learned counsel submits that in order to show his *bona fide*, the petitioner and his family members have offered to deposit FDR of Rs.1 lac each in the name of his two minor children before the Duty Magistrate/trial Court, within one month of his release and would also undertake not to involve himself in any criminal case from today.

Counsel submits that due to the present COVID-19 situation, detention of the petitioner in jail would be dangerous to his life and also keeping in view the fact that trial is likely to take some time, the petitioner may be granted concession of regular bail.

In view of the facts noticed above, the present situation due to COVID-19 and the fact that trial is likely to take some time, this Court deems it appropriate to direct release of the petitioner on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned, subject to his furnishing bail bonds/surety bonds.

In view of the peculiar circumstances as noticed above, in addition to bail bonds/additional surety, which the trial Court may further require the petitioner to furnish as it deems appropriate, in pursuance to the offer made by counsel for the petitioner, the petitioner would deposit two

FDRs made of Rs.1 lakh each in the name of the two minor children and give an undertaking (which shall be duly sent to the Bank) that the said FDRs shall not be encashed by anyone except the same can be used for the benefit of the minor children. The said FDRs shall be deposited within one month from the date of release of the petitioner before the Duty Magistrate/trial Court which shall await further orders of this Court. The above said amount shall be without prejudice to the defence of the petitioner before the trial Court.

However, it is made clear that anything observed herein shall not be construed to be an expression on merits of the case.

Disposed of.

13.10.2020

vishal shonkar

(Girish Agnihotri)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No