

CRM-M-32709-2020

Date of decision: 28.10.2020

Surjit Singh @ Jagga

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**Present:** Mr. B.S. Bhalla, Advocate
for the petitioner.**FATEH DEEP SINGH, J. (ORAL)**

Due to outbreak of pandemic COVID-19, the instant case is being taken up for hearing through video conferencing.

Notice of motion to the official respondent-State.

Mr. Jagmohan Ghuman, DAG, Punjab has put in appearance and accepts notice on behalf of the official respondent-State. Copy supplied.

The petitioner-Surjit Singh @ Jagga has come up in this 4th regular bail application under Section 439 Cr.P.C. (first and third one were dismissed as withdrawn by this Court vide order dated 08.10.2020 and 24.01.2019, respectively and second one was dismissed for non-prosecution vide order dated 19.07.2019) in a

case bearing FIR No.10 dated 21.01.2018 under Sections 363, 366-A, 120-B of the Indian Penal Code (Section 376 (2) (i) of IPC added later on) and Section 6 of the POCSO Act, registered at Police Station Ajnala, District Amritsar.

The present case was got registered by complainant-Joginder Kaur, mother of a girl, a student of 9th class. In her complaint, the complainant alleged that on 18.01.2018, while the family had gone to attend the marriage in their relations and when while attending to the call of nature, the complainant discovered that her daughter ran away with the petitioner and his brother-Malkit Singh on a motorbike leading to the registration of the present case.

Learned counsel for the petitioner *inter alia* contends that the girl, as per her own stand taken before the learned SDJM, Ajnala, made on 18.11.2018, had claimed that she was a major and her date of birth was 01.01.2000. It is submitted that since the girl, as per her own stand, had entered into a wedlock with the petitioner, who is in custody for more than 01 year 11 months and 13 days, necessitates allowing of bail.

The learned State counsel had sought to claim that the actual date of birth of the girl is 05.01.2003 and thus, was minor at the time of the occurrence and opposed the grant of bail.

Be so as it may, it is a matter of trial to adjudicate the exact date of birth of the girl which is a matter of evidence. In her statement under Section 164 Cr.P.C., the girl had claimed that she

was a major and had volunteered into this relation and was residing at her matrimonial home which is not displaced by the State. More so, in view of the period of incarceration and the fact that the trial is not likely to be concluded in the near future, no useful purpose will be served by keeping the petitioner behind the bars for more time. Cupability, if any, shall be determined at the time of trial. Accordingly, the petitioner is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate.

The petition stands disposed off accordingly.

28.10.2020
Neha

(FATEH DEEP SINGH)
JUDGE

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