

In virtual Court

CRM-M-32715-2020

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-32715-2020 (O&M)
Date of decision: 26.10.2020

Ajay Singla

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Sharmila Sharma, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.49 dated 18.01.2020 under Sections 363, 366-A IPC (Section 376-2N IPC was added later on) and Section 6 of POCSO Act, registered at Police Station Shivaji Colony, District Rohtak.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of Godhan Singh, his elder daughter 'K' is aged about 16 years and her date of birth is 18.02.2004. She has left the house on 18.01.2020 on her free will and one Ajay (petitioner) is also missing and he has suspicion that Ajay has abducted his daughter with intention to marry her. It is further submitted that on the very next day, the petitioner and the victim performed marriage and they started living as husband and wife. It is also

submitted that the petitioner was arrested on 04.06.2020 after a gap of five and half months and statement of the girl was recorded under Section 164 Cr.P.C. on 22.06.2020, wherein she has stated that on 18.01.2020, she had gone with her husband Ajay on her own free will and solemnized marriage on 21.01.2020 and since then, she is living with him and in future, she also want to live with him. Statement was recorded by Judicial Magistrate 1st Class, Rohtak in presence of the Investigating Officer.

Learned counsel for the petitioner then referred to MLR of the victim, wherein it is stated that she was knowing the person from last three years and she went with him Gujarat in January, 2020 and she had sexual relations with him with her own will. She came back with him on 22.06.202 morning. It is submitted that she even disclosed this fact before the Medical Officer, who conducted the MLR. Learned counsel has relied upon the affidavit of complainant Godhan Singh and his wife Pushpa, both parents of the victim, wherein they have stated that they have given the complaint due to some misunderstanding and they are ready to marry their daughter 'K' with the petitioner and the matter stands compromised.

Learned counsel has also relied upon an ultrasound report to submit that the victim is now pregnant with 18-20 weeks pregnancy. It is submitted that though it is matter of trial regarding age of the prosecutrix, however, the facts and circumstances of the case suggest that it was a case of void marriage between the petitioner and the prosecutrix and considering the fact that she is now in the family way and her parents have given consent to accept the marriage, no purpose will be served in keeping the petitioner behind the bars.

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Learned State counsel has not disputed the fact regarding statement recorded under Section 164 Cr.P.C. as well as the MLR, however, submits that he has no information regarding compromise with parents of the prosecutrix. Learned State counsel could not dispute about ultrasound report, which suggests that the prosecutrix is carrying a pregnancy of 18-20 weeks.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the totality of facts and circumstances of the case, I deem it appropriate to grant regular bail to the petitioner.

Accordingly, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

26.10.2020
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No