

227.

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

CRM-M-32881-2020 (O&M)

Date of decision: 27.10.2020

PAWAN KUMAR

... Petitioner

versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Sukhmeet Singh, Advocate,
for the petitioner.

Mr. Bhupinder Beniwal, AAG, Punjab.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

CRM-25731-2020

Prayer in this application filed under Section 482 Cr.P.C. is for dispensing with the filing of original power of attorney and scanned copy thereof.

Prayer for dispensing with the filing of original power of attorney and scanned copy thereof on account of COVID-19 is accepted with the condition that the petitioner shall deposit the required document within a period of one month when the situation becomes normal from the COVID-19 effect.

Application stands disposed of.

CRM-M-32881-2020

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.86 dated 04.03.2020, under Sections 363, 366-A of IPC registered at Police Station City Faridkot, District Faridkot.

Counsel for the petitioner has referred to the statement of the prosecutrix-victim recorded under Section 164 Cr.P.C., dated 14.06.2020 (Annexure P-2) and submits that it is the mother of the victim who told the victim to develop relations with the petitioner and had sent the prosecutrix with the petitioner. In her statement recorded under Section 164 Cr.P.C., the victim has rather supported the case of the petitioner. Moreover, neither the complainant and her husband have opted to get the ossification test of the victim conducted nor they supplied any document regarding the date of birth of the victim. Therefore, in the absence of any accurate date of birth, it cannot be stated that the victim was minor. Petitioner is in custody since 13.06.2020 and the trial in the case will take long time.

Learned State counsel submits that the victim was minor and therefore, even if she has consented, her consent is immaterial.

I have heard learned counsel for the parties.

Petitioner is in custody since 13.06.2020. In her statement recorded under Section 164 Cr.P.C., the victim has rather supported the case of the petitioner. The exact date of birth of the victim has not come on record. Moreover, her parents have neither come forward to get the ossification test of the victim conducted nor supplied any document so as to ascertain her exact date of birth. In this manner, culpability of the petitioner

is yet to be established during trial on the basis of evidence. Thus, this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial court shall decide the case on the basis of available material.

(HARI PAL VERMA)
JUDGE

27.10.2020
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No