

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

**CRM-M-33687 of 2020(O&M)
DATE OF DECISION : 29.10.2020**

Sukhpreet Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. G.S. Dhillon, 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.44 dated 28.02.2020, registered under Sections 363, 366-A and 376 IPC read with Section 6 of the Protection of Children from Sexual Offences Act, 2012, at Police Station City Nawan-Shahar, District SBS Nagar.

2. On the basis of a complaint by father of the prosecutrix an FIR was registered on 28.02.2020. Allegedly, prosecutrix aged 17 years and 08 months had gone out on 19.02.2020 on the pretext of visiting a beauty parlour. But she did not return home. Father suspected that his daughter had been enticed away by someone. Hence the FIR. Prosecutrix was later recovered in the company of the petitioner. Petitioner was arrested on 02.04.2020 and since then he is in custody.

3. Learned counsel for the petitioner submits that petitioner is a young boy of 22 years. The petitioner and prosecutrix were well known to

each other and had mutual attraction and affection for each other. He places reliance on photographs Annexure P-3 to show that relationship was consensual. He further contends that petitioner was unaware of the exact age of the prosecutrix. To his sheer ill luck, her age later turned out to be few months less than 18 i.e. 17 years and 08 months at the time of alleged incident, leading to the registration of the FIR at the instance of father of the prosecutrix. He strenuously submits that it is a case of consensual relationship which resulted into alleged sexual activity, if at all, purely out of love. However, the same is now being treated as criminal activity even though there was no intent on the part of either parties(prosecutrix and petitioner) to commit any such violation of law.

4. Learned counsel further submits that petitioner was all along under the impression that prosecutrix is above 18 years of age and she can legally chose her partner and, has legal right to consent and enter into relationship with her chosen partner. He further contends that petitioner is 22 years old and at the cross roads of his career and highly regrets his misadventure and certainly did not have any motive or *mens rea* to commit any crime. The petitioner is even now in love with prosecutrix, who is now of marriageable age and, he is ready and willing to solemnize marriage with her.

5. Learned counsel submits that even otherwise, investigation in the case is complete and challan has already been filed. No useful purpose would be served to keep the petitioner in further preventive custody. Presently trial is also held up due to Covid-19 pandemic as the Courts are working with restrictions and taking up only urgent matters. According to him, the petitioner is not involved in any other case.

6. Learned State counsel, on the other hand, opposes the bail plea. He, however, admits that investigation is complete presently, after filing of challan, there is no headway in the trial due to Covid-19 pandemic and petitioner is not involved in any other case.

7. The above submissions made by learned counsel for the petitioner *prima facie* do reflect there was a consensual relationship, but the same 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 no useful purpose would be served by keeping him in preventive custody any further.

8. 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.

9. Petition stands allowed accordingly.

OCTOBER 29, 2020

Jiten

(ARUN MONGA)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No