

In virtual Court

CRM-M-42168-2020

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

**CRM-M-42168-2020 (O&M)
Date of decision: 21.12.2020**

Mandeep

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vijay Sangwan, 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.429 dated 03.09.2019 under Sections 363, 366-A IPC and Section 16 of POCSO Act (Sections 343, 506, 376-D IPC and Section 6 of POCSO Act were added later on), registered at Police Station City Mahendergarh, District Mahendergarh.

Learned counsel for the petitioner relies upon the order dated 18.11.2020 passed in CRM-M-18141-2020, vide which co-accused Bhim Singh has been granted the concession of regular bail. The operative part of the order reads as under: -

“...Learned counsel for the petitioner submits that as per the allegations in the FIR, registered at the instance of complainant Shiv Kumar, his daughter (name withheld) was enticed away by some unknown person. Later on, during investigation, the police nominated the petitioner along with one Mandeep as accused after the statement of victim and her father was recorded under Section 164 Cr.P.C.

Learned counsel further submits that petitioner is in judicial custody since 06.12.2019.

Vide order dated 28.07.2020, noticing the fact that victim and her father had given affidavits (Annexures P-2 & P-3) showing the age of victim as 19 years, the trial Court was directed to record the statement of victim and her father/complainant.

Learned counsel for the petitioner has placed on record the copies of the statement of the victim and her father, wherein the victim, appearing as PW-1, has stated that her date of birth is 07.07.2001 and on 02.09.2019, she was upset and left her house and went to the house of her friend Sunita without informing her family. It is further stated by her that nothing wrong happened with her and no one took her forcibly and no wrong was committed by anyone. She has further stated that she has seen the accused through video conferencing and they did not commit any

wrong or rape with her. In response to a query put by the public prosecutor, regarding her statement given under Section 164 Cr.P.C., she has stated that it was made under the influence of the police. This witness was declared hostile and she even denied having made any statement to the police regarding allegations against petitioner Bhim Singh and co-accused Mandeep. In the cross-examination by the defence counsel, the victim stated that she is a married woman and did not know accused persons, who never committed any rape upon her.

The complainant/father of the victim, in his statement as PW-2, has stated that petitioner Bhim Singh and Mandeep have not enticed away his daughter in order to commit rape upon her. This witness was also declared hostile and during cross-examination by the public prosecutor, he even denied having made any statement before the police.

Learned counsel for the petitioner further submits that in view of the aforesaid statement made by the victim as well as her father and also in view of the affidavits (Annexure P-2 & P-3), given by both of them, no case is made out against the petitioner and there is no possibility of his conviction, therefore, the petitioner may be enlarged on regular bail...”

Learned counsel for the petitioner submits that case of the

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petitioner is at par with aforesaid co-accused, as the complainant and his daughter have not supported the prosecution version.

Learned State counsel has not disputed the factual position.

After hearing learned counsel for the parties, without commenting upon merits of the case and considering the fact that co-accused of the petitioner has been released on regular bail, 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/Illaqa Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

21.12.2020
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No