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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-54502-2019 (O&M)

Date of decision: 12.02.2020

RAJU SINGH

... Petitioner

versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Ankit Grewal, Advocate,
for the petitioner.

Mr. Hittan Nehra, Additional Advocate General, Punjab.

HARI PAL VERMA, J. (Oral)

CRM-3448-2020

Prayer in this application filed under Section 482 Cr.P.C. is to place on record the statement of the prosecutrix as Annexure P-6.

For the reasons stated in the application, same is allowed and the document-Annexure P-6 is taken on record, subject to all just exceptions.

CRM-M-54502-2019

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.0018 dated 25.01.2019 registered under Sections 363/366-A/465/467/468/471/376 of IPC and Section 4 of POCSO Act, 2012 at Police Station Patran, District Patiala.

Learned counsel for the petitioner has referred to the report of the chemical examiner dated 02.05.2019 to contend that spermatozoa was

not detected in the contents of exhibits III (pubic hair) & IV (Clothes of the prosecutrix). Even otherwise, the petitioner and the prosecutrix have solemnized married on 21.01.2019 and have sought protection from this Court in ***CRM-M-3849-2019*** titled as ***Gurpreet Kaur and another Versus State of Punjab and others***. This Court, vide order dated 25.01.2019 has disposed of the said petition with a direction to the Senior Superintendent of Police, Sangrur to take appropriate action on the representation submitted by the parties so as to protect their life and liberty. He states that the prosecutrix has appeared before this Hon'ble Court at the time when protection was being sought. It is on the basis of the aadhar card given by the prosecutrix wherein her date of birth is shown as 19.06.2000, the protection petition was filed. Thus, on the relevant date when protection petition was filed, she has already attained the age of 18 years. The petitioner is in custody since 15.02.2019. As against 23 witnesses cited by the prosecution, only 4 witnesses have been examined. The prosecutrix has been examined in the case though she has supported the case of the prosecution.

Learned State counsel does not dispute the custody. However, he submits that the prosecutrix in the case was minor. As per the matriculation certificate, her date of birth is 19.06.2001 and not 19.06.2000 as projected by the petitioner at the time when protection was sought before this Court. It is the petitioner who has tampered with the age of the prosecutrix so as to get the benefit of protection from this Court.

I have heard learned counsel for the parties.

Petitioner is in custody since 15.02.2019. As against 23 witnesses cited by the prosecution, only 4 witnesses have been examined. Though the prosecutrix in the case has been examined, but the medical record so produced by the counsel for the petitioner does indicate that spermatozoa was not detected in the contents of exhibit III & IV which are the pubic hair and the clothes of the prosecutrix respectively. In the background of the case when the petitioner and the prosecutrix have approached this Court and have sought protection and even considering the date of birth of the prosecutrix as 19.06.2001 as on the relevant date when the FIR was registered, she was about 17 years and 7 months of age, and the trial in the case is not likely to be concluded in the near future, 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.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

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

12.02.2020
sanjeev

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