

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-3987-2021 (O&M)
Date of Decision:- 9.2.2021

Kuldeep @ Abhi

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. D.S.Virk, Advocate, for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana,
assisted by ASI Sudesh.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in a case registered vide FIR No.219, dated 9.9.2018, Police Station Cheeka, District Kaithal, under Sections 363, 366-A, 376 IPC and Section 4 of POCSO Act.
2. The FIR in question was lodged at the instance of Raju wherein he alleged that his daughter aged 17 years went missing in the night between 3.9.2018/4.9.2018 and although they tried to look for her but she could not be found. The complainant alleged that they suspected that the petitioner-Kuldeep had allured complainant's daughter on the pretext of marrying her.

3. Learned counsel for the petitioner has submitted that even the petitioner was less than 18 years as on the date of occurrence and in this context he has referred to his Aadhar Card (Annexure P-2), as per which the petitioner's Date of Birth is recorded as 1.1.2001. Learned counsel for the petitioner has further submitted that in the instant case the complainant's daughter had voluntarily left her house as would be evident from her deposition (Annexure P-3) recorded in the Court. Learned counsel has referred to the said statement wherein the victim stated to the following effect:

“Stated that my date of birth is 24.8.2002. I had left my house with my boy friend accused Kuldeep present in the Court by my own wish. He did not kidnap me. We want to marry with each other but the same could not solemnized as I was below eighteen years. We took a room on rent near building of Mansa Devi Mandir and stayed there for 18 days where accused committed rape upon me. He committed rape upon me there for 5-6 times. Thereafter we went to Zirakpur. We took a room on rent in Zirakpur also. We remained there at about 1 ½ months. Accused committed rape upon me there also. Thereafter, we went to Pehowa and accused took me in the house of his bua/aunt namely Palo. We stayed there for 3-4 days but no wrong act was done with me there. Thereafter we went to Jind and took a room on rent in Loco Colony at Jind. We remained there for two months. He committed rape upon me there also. Thereafter we were apprehended by the police. I got medico legally examination from Medical Officer CHC Guhla by police.....”

4. Opposing the petition the learned State counsel has submitted that it is a case where the victim was less than 18 years and that in these circumstances her consent would be immaterial and since it is a heinous nature of offence, no case for grant of bail is made out. Learned State counsel has however, informed that the petitioner as on date has been behind bars since the last 1 year and 10 months and till date only 14 out of the cited 29 PWs has been examined. It has further been informed that the petitioner is not involved in any other case.
5. I have considered rival submissions addressed before this Court.
6. Bearing in mind the fact that the petitioner who is a young boy has already been behind bars since the last about 1 year and 10 months and trial in its normal course is not likely to be concluded in immediate future as only 14 out of the cited 29 PWs have been examined so far, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

February 9, 2021

mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No