

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(217)

CRM-M-4322-2021(O&M)
Date of Decision: 16.09.2021

Rohan Mahli

--Petitioner

Versus

State of U.T., Chandigarh

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Ketan Chopra, Advocate for the petitioner.

Mr. A.M. Punchhi, P.P., U.T., Chandigarh.

RAJESH BHARDWAJ.J (Oral)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

CRM-29080-2021

Application is allowed as prayed for.

Copies of statements dated 17.8.2021 are taken on record as Annexures P-11 and P-12.

Main Petition

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.0207 dated 30.12.2020 under sections 376(2)(n), 506 I.P.C and Section 6 of POCSO Act, registered at Police Station, I.T. Park, Chandigarh.

Learned counsel for the petitioner vehemently contends that the petitioner is a teenager, who is behind bars since 31.12.2020. Counsel further submits that the FIR has been falsely registered by the victim herself, wherein the allegations pertaining to offences under Section 376 I.P.C and

POCSO Act were levelled. It has been contended that both petitioner and victim were already in a relationship and they wanted to perform marriage, however, on account of their age the same could not be performed. Counsel further contends that the FIR in question was got registered by the victim under pressure and the same is an outcome of a tutored version. Counsel submits that false implication of the petitioner is evident from the very fact that now the victim, her father and mother have been examined before the Trial Court, wherein all have failed to support the case of the prosecution and thus they were declared hostile. Counsel submits that petitioner and the victim would perform marriage on attaining the majority. He prays that the petitioner be enlarged on bail in view of the attending circumstances.

On the other hand, learned State counsel has vehemently opposed the averments made by the counsel for petitioner. He would submit that the offences under which the petitioner is being prosecuted are stringent in nature and in view of the specific statutory provisions there lies a presumption against the petitioner. He has submitted that even if the prosecutrix has not supported the case of the prosecution, the presumption still lies against the petitioner.

I have heard learned counsel for the parties at length and have gone through the records carefully.

There is no gainsaying that the prosecutrix is a minor. The offence is under the POCSO Act, however, this Court is only seized of the prayer relating to grant of regular bail to the petitioner. The appreciation of evidence produced by the parties is entirely the domain of the Trial Court for which this Court would refrain from making any comment. However, in the overall facts and circumstances of the case and taking into consideration

the period of incarceration already suffered by the petitioner, I am of the view that the petitioner be enlarged on bail.

In the totality of facts and circumstances and without making any observations on merits, present petition is allowed. Petitioner be enlarged on bail subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

16.09.2021

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No