

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM No. M-5075 of 2020 (O&M)
Date of decision : January 12, 2021

Sanjay @ Jony

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Arjun Sheoran, Advocate, for the petitioner

Mr. Gaurav Jindal, Addl. AG Haryana

Mr. Yashveer Kharb, Advocate, for the complainant

Fateh Deep Singh, J. (Oral)

CRM-247-2021

The matter has been taken up through Video-conferencing on account of outbreak of pandemic COVID-19.

For the reasons mentioned in the application, the same is allowed. Documents Annexure P/8 are taken on record.

CRM-M-5075-2020

The accused Sanjay @ Jony has come up in this second

regular bail application in case FIR No. 209 dated 11.10.2018, under Sections 328, 376(2)(N), 452 & 506 IPC and Section 6 of the POCSO Act and subsequently Sections 66-C, 66-E, 67-A of Information Technology Act, 2000 were added, Police Station Sanoli, District Panipat (first one was dismissed on 17.5.2019 by this Court).

The present case was got registered by father of a girl who is aged around 17½ years. It is alleged that the victim was alone in her house when on 10.8.1918, the accused co-villager has tress passed in their house and after administering cold drink laced with intoxicant ravaged her and took her nude photographs. Subsequently on the intimidation and threats had been repeatedly doing so and when the girl was got engaged, he is alleged to have sent her fiancé nude photographs of the girl as well as gave threats to the girl.

Learned counsel for the petitioner inter-alia contends that the petitioner is behind the bars for more than two years and three months and has sought to seek support from copies of the letters Annexure P/8 in all numbering five to hammer home the point that the boy and the girl were in a relationship and that the present case has come about on false and fictitious ground on account of caste disparities.

Learned State counsel assisted by counsel for the complainant have strongly opposed the bail on the grounds that the girl at the time of the occurrence was a minor and it was under threat, the petitioner had been defiling her and after the accused did not stop in his rendezvous the family was forced to lodge the present case and in view of the heinousness of the offence, sought dismissal of the same.

Going through the arguments and the record, initially in the FIR and so in her statement under Section 164 Cr.P.C. recorded before the Magistrate, the girl had alleged a single instance which took place on 10.8.2018. However, subsequently she has claimed that the accused had been repeatedly defiling her and even after her engagement had threatened her. The girl is on the fringe of attaining majority. The innumerable letters placed on the records, the own admission of the prosecutrix which is suggestive from the records that they were in a relationship over a long period of time is one of the impelling circumstance for mitigating the heinousness. Keeping in view the period of incarceration and the fact that on account of present COVID-19 pandemic, the trial is not likely to be accomplished in near future, no purpose will be served by retaining the petitioner in jail. Accordingly, he is ordered to be released on

regular bail to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, concerned.

The present petition stands disposed off accordingly.

The observations made herein above shall have no bearing on the merits of the case as these are purely for the disposal of the present bail application.

January 12, 2021
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(Fateh Deep Singh)
Judge

<i>Whether speaking/reasoned ?</i>	<i>Yes/No</i>
<i>Whether Reportable ?</i>	<i>Yes/No</i>