

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

234

**CRM-M-16464-2021
Decided on : 06.09.2021**

Krishan

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. S.K. Verma, Advocate
for the petitioner(s).

Ms. Gaganpreet Kaur, AAG, Haryana
assisted by SI Laljeet Singh.

MANJARI NEHRU KAUL, J. (Oral)

The instant petition has been filed under Section 439 Cr.P.C. for grant of bail to the petitioner in case FIR No. 371, dated 17.09.2020, registered under Section 4 of the POCSO Act, 2012 and Sections 363, 366-A of IPC, lodged at Police Station Civil Line Jind, District Jind.

Learned counsel for the petitioner submits that in fact the victim is not a minor as has been alleged in the FIR in question, but was a major, who had solemnized marriage with the petitioner willingly. He further submits that even as per the allegations levelled in the FIR in question, the victim had been engaged with the petitioner, however, the engagement was called off. Learned counsel has invited the attention of this Court to the statement of the victim recorded under Section 164 Cr.P.C., wherein, she has categorically stated that she had solemnized the marriage with the petitioner and she had accompanied him to Chandigarh of her own accord. Learned counsel submits that in the circumstances it is very evident that the complainant, who is the mother of the victim, has filed a false and fabricated case against the petitioner. Further submits that the petitioner has been

in custody since 27th September, 2020 and only 04 witnesses out of the 17 prosecution witnesses cited, have been examined so far. Hence, he be extended the concession of bail.

Per contra, learned State counsel has vehemently opposed the prayer and submissions made by learned counsel for the petitioner. She, on instructions from SI Laljeet Singh, has apprised the Court that the complainant as well as the victim have not been examined and hence, in this background if the petitioner is extended the concession of bail, there is every likelihood that he may tamper with the material evidence and try to influence the witnesses to depose in his favour. Learned State counsel has vehemently controverted the submissions made by learned counsel for the petitioner with respect to the petitioner being in a consensual relationship with the petitioner. She has submitted that the victim was not a major, as has been stated by the petitioner, but was a minor, aged 16 years. In support of her submissions, she has submitted that soon after the victim was enticed away by the petitioner, they had approached this Court by way of CRWP No. 7632 of 2020 for protection of their life and liberty, wherein, they themselves had admitted that the victim was a minor.

Learned State counsel has further submitted that as per the evidence collected during investigation, it has come to light that the date of birth of the victim was 24th September, 2004. Therefore, in the aforementioned background, even if assuming that the victim had accompanied the petitioner of her own volition, her consent would be of no consequence, since she was minor on the date of occurrence.

Heard.

Keeping in view the facts and circumstances of the case and nature of offences levelled against the petitioner in the FIR in question, this Court is not

inclined to extend the concession of bail to the petitioner.

Petition stands dismissed accordingly. However, anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

September 06, 2021

J.Ram

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