

232 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(through video conferencing)

CRM-M-23378-2021
Decided on : 23.08.2021

Dheeraj

..... Petitioner

Versus

State of Hayana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Kunal Dawar, Advocate
for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

Manjari Nehru Kaul, J.

Instant petition has been filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.766 dated 01.02.2020 registered under Sections 363, 366-A IPC,1860 (Challan presented under Sections 363, 366-A, 506 IPC and Section 6 of POCSO Act) at Police Station Sector 7 District Faridabad.

Learned counsel for the petitioner *inter alia* contends that essentially it is a case of consensual relationship between two adults. He submits that even as per the FIR, which was registered at the instance of the father of the victim, he categorically stated that his daughter was approximately 18 years of age. Subsequent to her recovery on 07.12.2016, the prosecutrix declined to subject herself for ossification test. He further submits that had she undergone the ossification test as advised by the doctor, it would have clinchingly revealed that the victim was definitely more than 18 years of age. While inviting the attention of this Court to the testimony of the victim (Annexure P-3) before the trial Court, learned

counsel submits that the prosecutrix had categorically admitted in her cross-examination that whatever she stated in her statement recorded under Section 164 Cr.PC, had been stated at the behest and instance of her parents. Learned counsel submits that it is thus, evident that a false case had been registered against the petitioner as her family was averse to her relationship with the petitioner. Still further, he submits that the prosecutrix remained with the petitioner for as many as 8 days as per her own statement and travelled with him from place to place, however, not even once did she raise any hue and cry qua her forcible abduction by the petitioner, which further lends credence to the fact that both the petitioner and the prosecutrix were in a consensual relationship. Hence, a prayer has been made for extending the concession of bail to the petitioner as he has been in custody since 07.12.2020.

Per contra, learned State counsel while opposing the prayer of learned counsel for the petitioner on instructions from ASI Ashok has apprised the Court that prosecutrix, her father and another witness, have been examined before the trial Court and they have supported the case of the prosecution in its entirety. She has however not been able to controvert the factum of the prosecutrix admitting during her cross-examination that she had been tutored by her parents to level allegations against the petitioner in her statement recorded under Section 164 Cr.PC.

Heard.

The petitioner has been in custody since 07.12.2020, material witnesses including the complainant and the victim already stand examined.

The present petition is allowed and the petitioner is admitted to bail to the

satisfaction of the trial Court/Duty Magistrate as the trial is unlikely to conclude in the near future. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

23.08.2021
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No