

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

CRM-M-22836-2020
Decided on : 23.02.2021

Joel Petitioner

Versus

State of Punjab Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. A.S.Manaise, Advocate
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

Manjari Nehru Kaul, J.

The present petition has been filed under Section 439 Cr.P.C., for grant of regular bail to the petitioner in case FIR No.05 dated 19.01.2019 under Sections 363, 366, 376 IPC 1860 and Section 4 of POCSO Act, 2012 registered at Police Station Division No.2, Pathankot District Pathankot.

Learned counsel for the petitioner states that the name of the petitioner was nominated as an accused by the father of the prosecutrix in the supplementary statement, which was recorded after 15 days of her going missing. The prosecutrix was thereafter recovered from Haridwar on 14.02.2019 after a couple of weeks and her statement recorded under Section 164 Cr.PC (Annexure P-2) wherein she stated that she was 18 years of age and had gone of her own accord with the petitioner and married him. It has also been submitted that even during her cross-examination she had stated that she had gone with the petitioner of her own accord and married him. It has further been submitted that even qua the age of prosecutrix there

was no authentic evidence placed on record by the prosecution from which it could be inferred that she was below 18 years of age on the day when she went missing from her house. Learned counsel has therefore prayed for making order dated 29.09.2020 absolute passed by the Coordinate Bench granting the petitioner interim bail.

Per contra, learned State counsel on instructions from ASI Harpreet Singh has not been able to controvert the factual aspect of the submissions so made by the learned counsel for the petitioner. He further submits that 3 out of 21 prosecution witnesses which include the prosecutrix have been examined.

In view of the above, the petition is allowed and interim order dated 29.09.2020 passed by the Coordinate Bench, is made absolute subject to furnishing of his fresh bail bonds/surety bonds to the satisfaction of the trial Court. 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.

23.02.2021

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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No