

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

208

CRM-M-25151 of 2020 (O & M)
Date of decision :-08.04.2021

Jarnail Singh @ Falu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr.Chetan Bansal, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab for the respondent-State.

SUVIR SEHGAL, J.

Vide the instant second petition filed under Section 439 of the Code of Criminal Procedure, 1973, the petitioner seeks grant of bail pending trial in FIR No.157 dated 05.10.2019, Annexure P-1, registered for offences under Sections 363, 366-A and 376 of the IPC and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 (for short - the POCSO Act) at Police Station Kamboj, Amritsar.

FIR, Annexure P-1, has been registered on the statement of the father of a minor girl (hereinafter referred to as 'the victim/prosecutrix') on the allegation that his school going daughter had been lured by Jarnail Singh, present petitioner, who is an Auto-driver, with the intention of getting married to her. During investigation, the victim was recovered from the custody of the petitioner, she was medico legally examined, her statement was recorded and Section 376 IPC was added. The petitioner was arrested on 09.10.2019.

Counsel for the petitioner has referred to the birth certificate, Annexure P-3, and marriage certificate dated 05.10.2019, which is taken on record as Mark A, to contend that the victim is a major and has married the petitioner of her own volition. He submits that after marriage both the parties

had filed the joint petition, Annexure P-5, seeking protection of their life and liberty from the hands of the relatives of the victim. He submits that the victim had filed an affidavit, Annexure P-7, in support of the petition and her statement, Annexure P-8, was recorded before the Sessions Court, Ludhiana before the Court issued notice on the petition on 09.10.2019, Annexure P-6. It is his argument that the victim had accompanied the petitioner of her free will and in her statement recorded under Section 164 Cr.P.C., she has not levelled any allegation of rape. Counsel has referred to the ossification report, Annexure P-4, and evidence of the doctor, Annexure P-12, to urge that the age of the prosecutrix is reported to be between 17 to 20 years.

Opposing the petition on the basis of instructions from ASI Kewal Singh, State counsel has referred to the affidavit of Deputy Superintendent of Police, Sub-Division Attari, Amritsar (Rural) and the deposition of the victim, Annexure P-10 and P-11, recorded on oath in camera, to submit that she has levelled specific allegation of repeated rape against the petitioner. Placing reliance of the judgment of the Hon'ble Supreme Court in **State of Punjab versus Gurmeet Singh**, (1996) 2 SCC 384, he submits that the testimony of the prosecutrix does not require any corroboration and is sufficient to record the conviction of the accused. He asserts that the date of birth of the victim is 14.10.2003 as is apparent from the matriculation examination-cum-detailed marksheet as well as the Aadhar card and that the birth certificate, Annexure P-3, is a forged document as it is claimed to be signed by the Sarpanch of the village, who has denied his signatures. Still further, he submits that in her deposition, the prosecutrix stated that she was under pressure of the accused when she submitted affidavit, Annexure P-7 and when her statements were recorded. State counsel has questioned the authenticity of the marriage certificate relied upon by the petitioner on the ground that it neither bears any

serial number nor the date of the alleged marriage, nor the name of the ‘Granthi’, who is supposed to have performed the marriage.

I have considered the respective submissions of the counsel for the parties.

The victim has levelled very categoric accusation against the accused petitioner and has alleged that he has been ravishing her at his home in the absence of her mother. The birth certificate and marriage certificate produced by the petitioner are doubtful. The trial Court has framed charge against the petitioner under Section 363, 366 IPC read with Section 6 of the POCSO Act with an alternative charge under Section 376 (2) of the IPC vide order dated 05.12.2019. Statutory presumption under Section 29 of the POCSO Act is also against the petitioner. The trial is underway at the Fast-Track Court, Amritsar and is likely to be concluded in the near future. The first petition seeking grant of regular bail was withdrawn by the petitioner after arguments on 09.07.2020. There is no change in the circumstances warranting filing of fresh petition by the accused. No ground is made out for the grant of bail pending trial to the petitioner.

Petition is accordingly dismissed.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

08.04.2021
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No