

CRM-M-25994-2020

Date of Decision:19.01.2021

Sunil Kumar

.....Petitioner

Vs.

State of Haryana and another

....Respondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr. Vivek Goyal, Advocate
for the petitioner.

Mr. Surender Singh, AAG, Haryana.

Mr.Deepak Aggarwal,Advocate,
for the complainant.

AMOL RATTAN SINGH, J. (Oral)

Case heard by video conferencing.

By this petition, the petitioner seeks the concession of 'regular bail' under the provisions of Section 439 Cr.P.C., upon FIR No.0225, dated 04.06.2020, having been registered at Police Station Kurukshetra University, District Kurukshetra, alleging therein the commission of an offence punishable under Section 6 of the Prevention of Children from Sexual Offences Act, 2012 (POCSO) (with Sections 363, 366 and 376 of the IPC added later)

On September 18, 2020, the following order had been passed:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

Learned counsel for the petitioner submits that the matter has in fact been compromised between the petitioner and the complainant, who is his sister-in-law, with her affidavit also on record as Annexure P-2.

He further submits that even as recorded by the learned Additional Sessions Judge, Kurukshetra, in an order dated August 20, 2020, the statement made under the provisions of Section 164 of the Cr.P.C. by the prosecutrix, was that she did not wish to pursue her complaint presently, but with the petition of the petitioner before that court having been dismissed on the ground that since, at the time of

commission of the offence, the prosecutrix was a minor, therefore her subsequent statement would have no meaning.

He further submits that even as per the FIR registered on 04.06.2020, the alleged occurrence took place about 4 years earlier, when the prosecutrix was 15 years old, with her now being more than 19 years of age.

Learned State counsel submits that though undoubtedly the FIR has been registered about 4 years after the alleged occurrence, however, the allegation being that the prosecutrix was raped at the age of 15, the petitioner does not deserve to be admitted to bail.

Having considered the matter as also the fact that he has been in custody for the past about 3 months now and that the prosecutrix herself having got the FIR registered after attaining the age of majority and immediately thereafter having got her statement recorded under the provisions of Section 164 Cr.P.C. to the effect that she did not wish to pursue the complaint presently, without making any comment on the actual merits of the case, the petitioner is ordered to be admitted to interim bail, upon him furnishing adequate bail and surety bonds to the satisfaction of the CJM/trial court/Duty Magistrate, concerned, till the next date of hearing before this court.

Adjourned to 19.01.2021.

A reply of a gazetted officer be filed in the meanwhile.”

Today, a reply of the DSP, Kurukshetra, is on record, giving therein the details of the complaints filed, as also stating that the prosecutrix refused to get herself medico-legally examined, with the petitioner however, having been arrested on 09.06.2020, and his disclosure statement having been recorded.

It has also been stated that the affidavit furnished by the complainant/victim has no relevance as the offences attributed to the petitioner are not compoundable in nature and that even her statement recorded under the provisions of Section 161 Cr.P.C. would be considered at the time of the trial, with her having only 15 years old on the date of the occurrence.

Learned State counsel naturally has argued in terms of the affidavit to submit that the petitioner should not be admitted to bail.

Having considered the matter, looking at the aforesaid facts and with it further stated that actually the petitioner is the brother-in-law of the

victim, which is probably why she may not want to pursue the complaint (i.e., subject to her testimony before the trial court), as regards the present petition by which the petitioner is seeking to be admitted to bail, with no other criminal case stated to have registered against him, the petition is allowed, with the order passed on 18.09.2020 made absolute, on the same terms and conditions.

January 19, 2021

dharamvir/

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO