

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

CRM-M-40055-2021
Decided on : 29.09.2021

Sukhwinder Singh @ Sukhjinder Singh @ Sukhi Petitioner

Versus

State of Punjab Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Navjot Singh, Advocate
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

Mr. Shahzad Singh, Advocate
for the complainant.

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.107 dated 23.07.2021 registered under Sections 363, 366-A, 376 IPC and Section 6 of POCSO Act, 2012 at Police Station Amargarh District Sangrur.

Learned counsel for the petitioner *inter alia* contends that false allegations have been levelled against the petitioner of firstly enticing away the prosecutrix on the pretext of marriage and thereafter committing rape upon her. He submits that the statement made by the victim under Section 164 Cr.PC lends credence not only qua his false implication but also reveals that the victim had stated therein that she had accompanied the petitioner of her own accord and thereafter solemnized marriage at Fatehgarh Sahib. He further submits that age of the victim was more than 18 years on the date of alleged occurrence, which was clearly reflected in her Aadhar Card wherein

her date of birth was mentioned as 15.04.2003. A prayer has therefore, been made for extending the concession of bail to the petitioner as he has been in custody since 29.07.2021.

Per contra, learned State counsel assisted by learned counsel for the complainant while opposing the prayer of learned counsel for the petitioner has not been able to controvert the contents of the statement of the victim recorded under Section 164 Cr.PC wherein she had not levelled any allegation of wrong doing against the petitioner. However, it was submitted that as per the record of Registrar of Birth and Death Certificate, the date of birth of the victim was 07.07.2004, which made the victim 16 years and 11 months on the date of alleged occurrence.

Heard learned counsel and perused the material available on record.

The petitioner has been in custody since 29.07.2021, challan stands presented and hence, there is no likelihood of the trial concluding in the near future. Accordingly, the present petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate. 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

29.09.2021

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Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No