

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

206

**CRM-M-41361-2020(O&M)
Decided on : 12.03.2021**

VISHNU

... Petitioner(s)

Versus

STATE OF HARYANA

... Respondent(s)

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL
(Through Video Conferencing)**

PRESENT: Mr. Baljeet Beniwal, Advocate
for the petitioner.

Ms. Tanushree Gupta, DAG Haryana
assisted by HC Shahid.

MANJARI NEHRU KAUL, J. (Oral)

CRM-1073-2021

For the reasons mentioned in the application, the same is allowed. Birth certificate of the prosecutrix (Annexure P-9) is taken on record, subject to all just exceptions. The Registry is directed to place the same on the appropriate place.

CRM-M-41361-2020

The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.33, dated 10.02.2020 under Sections 363, 366-A, 376, 370, 511 and 506 of IPC and Section 4 of the POCSO Act, registered at Police Station Hathin, District Palwal.

2. Learned counsel contends that the petitioner has been falsely implicated by the parents of the prosecutrix, who are stated to be averse to his relationship with the prosecutrix. He further contends that subsequent to her recovery, the prosecutrix in her statement stated that not only was she

above 18 years of age but had also categorically stated that the petitioner had done no wrong with her.

3. In support of his submissions qua the age of the prosecutrix, learned counsel for the petitioner has drawn the attention of this Court to Annexure P-9, which is the birth certificate of the prosecutrix, wherein her date of birth is reflected as 20.11.2001. He has also referred to the statement of mother of the prosecutrix (Annexure P-5) wherein also her age has been mentioned as being between 18-19 years of age. Still further, while drawing the attention of the Court to the Medico-Legal Report (Annexure P-6) of the prosecutrix, it has been submitted that the MLR also finds corroboration with the statement of the prosecutrix as no injury was found on her person.

4 Learned counsel has also drawn the attention of this Court to Annexures P-1, P-2 and P-3 dated 18.02.2020, wherein also the prosecutrix has not alleged any wrong-doing on the part of the petitioner. It has been submitted that both the parties were major and it was in fact a case of consensual relationship.

5. Learned counsel has submitted that the petitioner has been in custody since 25th May, 2020 and only challan has been presented till date, hence, there is no likelihood of the trial concluding anytime in the near future, so the petitioner may be extended the concession of bail.

6. *Per contra*, learned State counsel while opposing the prayer and submissions made by the learned counsel for the petitioner on instructions from HC Shahid has not been able to controvert the factum of the prosecutrix not alleging any thing, much less, any sexual assault against the petitioner. She has submitted that charges are likely to be framed in the near future.

7. Heard.

8. In view of the submissions made by learned counsel for the parties, I deem it a fit case for grant of the concession of regular bail to the petitioner, as the trial is unlikely to conclude in the near future, more so, in the prevailing conditions due to the outbreak of COVID-19. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of trial Court/Duty Magistrate. However, it is made clear that anything observed hereinabove shall not be construed as an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

March 12, 2021

S.Sharma(syr)

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>