

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

CRM No.M-42456 of 2020 (O&M)

Date of Decision: January 27, 2021

Binder Verma

...Petitioner

VERSUS

State of U.T. Chandigarh

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Amit Gupta, Advocate,
for the petitioner.

ARCHANA PURI, J.

The matter has been taken up through video conferencing in the light of the COVID-19 pandemic.

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.230 dated 14.09.2019 under Sections 363 and 366 IPC (Section 376(3) IPC and Section 6 of the POCSO Act added later on), registered at Police Station Sector-34, Chandigarh.

Notice of motion.

Mr.Deepinder Singh Brar, APP, accepts notice on behalf of the respondent-U.T. Chandigarh.

As per version of the prosecution, one of the daughters of the complainant (prosecutrix), on 11.09.2011 at about 4.00 p.m., had gone to Sector-34, Chandigarh, for learning computer. However, she did not return

back. The prosecutrix is stated to be 15 years old. Later on, complainant

came to know about her daughter being harassed for marriage by Binder. Even, this information was given by her daughter, on an earlier occasion. Complainant came to know that Binder has enticed her daughter away, with an intention to perform marriage with her.

During the course of investigation, prosecutrix was recovered from the custody of the petitioner. Her statement under Section 164 Cr.P.C. was also recorded.

Now, it is submitted by learned counsel for the petitioner that the petitioner is in custody since 21.12.2019. In fact, the prosecutrix was having relations with the petitioner and they had performed marriage. It is also submitted that at the time of marriage, the age of the prosecutrix was 20 years and she herself had produced documents relating to her age and her relationship with the petitioner. Also, it is submitted that mother of the prosecutrix has wrongly stated the date of birth of the prosecutrix to be 06.01.2004. To substantiate the version of date of birth of the prosecutrix, it is submitted that 3rd standard mark-sheet of 2008 was produced, which has been wrongly discarded by learned lower Court. National Savings Certificate, the detail whereof is given at Annexure P-1, has been relied upon, wherein, it is stated that it relates to 2003 and it is submitted by learned counsel for the petitioner, had the victim being minor (born in the year 2004), the same would not have been issued in the year 2003.

However, the claim for bail is resisted by learned AAP for U.T. Chandigarh, as he submits that even though, challan has been presented but charge has yet not been framed and as such, trial has not started. In the light of the same, it is submitted that it is too early to comment upon the age of the prosecutrix, as submitted. Rather, it is submitted that the complainant

has categorically stated the date of birth of the prosecutrix to be 06.01.2004.

As such, prayer has been made for dismissal of the petition.

The allegations against the petitioner, as stated aforesaid, are of grave nature. As per the version of the prosecution, the prosecutrix was minor at the relevant date. In fact, the mother has categorically stated the date of birth of the prosecutrix to be 06.01.2004. The evidence relating to the date of birth of the prosecutrix is yet to be brought on record. Considering the same, no reliance, as such, can be placed upon Annexure P-11, solely. In fact, the document, so relied upon by learned counsel for the petitioner before the lower Court, which is 3rd standard mark-sheet, has also been stated to be, seemingly not genuine.

Considering the initial stage of the case and the serious nature of the allegations, more particularly, when prosecutrix is stated to be minor, at this stage, no case is made for grant of regular bail to the petitioner. Consequently, finding no merit in the present petition, the same is dismissed.

(ARCHANA PURI)
JUDGE

January 27, 2021
Vgulati

Whether speaking/reasoned
Whether reportable

Yes
Yes/No