

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-42471-2020 (O&M)
Date of Decision:- 24.2.2021

Mohit ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Yashveer Kharb, Advocate, for the petitioner.

Ms. Sheenu Sura, DAG, Haryana,
assisted by ASI Rishipal.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

CRM-5494-2021

In view of the reasons mentioned in the application, the same is allowed as prayed for and Annexure P-6 is taken on record subject to all just exceptions.

CRM-M-42471-2020 (O&M)

1. The petitioner seeks grant of regular bail in a case registered vide FIR No.494, dated 15.8.2020, Police Station Samalkha, District Panipat, under Section 6 of POCSO Act, Sections 363, 366, 376(2)(n), 376(3) and 450 IPC and Section 3 of SC and ST (Prevention of Atrocities) Act.

2. The FIR was lodged at the instance of Ram Mehar wherein he alleged that his daughter i.e. the victim aged 16 years was studying in Class 12 standard and who had left her home in the morning of 13.8.2020 and had not returned back. It is the case of prosecution that the victim was recovered on 28.8.2020 and on which date her statement under Section 164 Cr.P.C. was recorded wherein she disclosed that she had left her home on 12.8.2020 with Mohit out of her own free will and that now she wanted to go back to her parents.
3. Learned counsel for the petitioner has submitted that it is evident from the statement under Section 164 Cr.P.C. that she had herself called the petitioner to her home and had left her home out of her own sweet will. It has further been submitted that in fact the victim is aged more than 18 years and her age as disclosed to be 16 years is incorrect since she is studying in Class 12th and in her statement recorded during the proceedings of trial i.e. statement dated 10.2.2021 (Annexure P-6) she has stated during cross-examination that her father had got her age recorded to be lesser by about 1-2 years at the time of her admission in school.
4. Opposing the petition, learned State counsel has submitted that since the victim in her statement recorded during the proceedings of trial has stated that the petitioner had raped her, no case for grant of bail is made out. It has however, been informed that the petitioner is behind bars since the last about 6 months.
5. I have considered rival submissions addressed before this Court.

6. Having regard to the fact that in statement of the victim recorded under Section 164 Cr.P.C. she has not levelled any allegation against the petitioner either as regards abduction or as regards rape and while also noticing that the victim even in her statement recorded during the proceedings of trial has stated that she had accompanied the petitioner on her own accord and had remained in his house upto 28.8.2020 and that she had performed marriage with Mohit after converting to Islam and there were witnesses present at the time of marriage and that she had thereafter lived with the petitioner as his wife, it is apparent that it is a case where the petitioner had left her home out of her own sweet will. The factum of the victim being a minor is rendered highly debatable when she herself stated during cross-examination that her father, at the time of her admission in school had got her age recorded lesser by 1-2 years of her actual age. The petitioner, in any case has been behind bars since the last about 6 months. In these circumstances, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

February 24, 2021

mohan

**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No