

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

206

CRM-M-54382-2019 (O&M)

Date of Decision: 22.02.2021

Aneesh Kumar

...Petitioner

Versus

State of Punjab & another

...Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Vikrant Rana, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by ASI Bhalwinder Singh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.56 dated 30.03.2019 at Police Station City South, District Moga, under Sections 365/366-A,120-B of IPC (Sections 363/376/120-B IPC and Sections 3 & 4 of the POCSO Act added later on).
2. The FIR in question was lodged at the instance of Puntti Devi, wherein it is alleged that her daughter i.e. the victim, aged about 16 years is working in Orchestra. It is alleged that about one month earlier, when she and her daughter had gone from their village to Moga, they met Binder Kaur and Gurmeet Kaur @ Khari, who were also working in Orchestra. Binder Kaur asked her to send the victim for some program as marriage season was going to commence. Thereafter, Binder Kaur and Gurmeet Kaur took the

victim along with them while saying that they would send the victim after 2/3 days, but her daughter was not sent back. Upon inquiry, she was told that the victim has been sent to Haryana in connection with some program. However, later she came to know that Binder Kaur and Gurmeet Kaur had allured her minor daughter to work in Orchestra and had in fact sold her to Aneesh Kumar for an amount of Rs.2 lakhs and was being kept in Haryana.

3. Learned counsel for the petitioner has submitted that it is a case where the complainant's daughter had solemnized marriage out of her own accord with Aneesh Kumar and that the compromise dated 13.03.2019 (Annexure P-2) would clearly show that the marriage had been solemnized with the consent of victim.
4. Opposing the petition, learned State counsel has submitted that since there are specific allegations to the effect that the victim had been married off against her wishes while she was a minor, no case for grant of bail is made out. Learned State counsel has further submitted that in fact as per ossification test, the age of the victim has been opined to be between 17/18 years. Learned State counsel has, however, informed that the petitioner has been behind bars since the last about 1 year and 11 months and that the petitioner also stands involved in one more case of identical nature.
5. I have considered rival submissions addressed before this Court.
6. As far as the age of the victim is concerned, no doubt, as per ossification test the age of the victim had been opined to be between 17/18 years, but it is also well settled that a margin of error can be extended to the accused to the extent of 2 years. By

extending such margin of error, the victim can be said to be more than 18 years of age at the time of occurrence in question. In any case, the petitioner as on date has been behind bars for a substantial period of 1 year and 11 months and conclusion of trial is likely to consume time as till date not even a single PW out of cited 18 PWs has been examined. In these circumstances, no useful purpose would be served by detaining the petitioner behind bars. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

22.02.2021

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**