

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

CRM-M-6852-2022

Date of Decision: 23.02.2022

RAJESH KUMAR

... PETITIONER

VS.

STATE OF HARYANA

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr.Rakesh Kumar Lathwal, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

VIVEK PURI, J.(ORAL)

The matter has been taken up through video-conferencing due to COVID-19 pandemic.

Through instant petition, the petitioner is seeking regular bail in case bearing FIR No.480 dated 02.12.2018 under Sections 120-B, 174-A, 363, 366-A, 376, 420, 467, 468, 471 IPC and Sections 4, 17 and 21 of the Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act') registered at Police Station Sonipat Sadar, Gohana District Sonipat.

Briefly, the aforesaid FIR was registered at the instance of the father of the prosecutrix alleging that his daughter, aged about 17 years and 02 months, has been enticed away with an intent to perform marriage. Subsequently, Rohit was nominated as an accused and it had emerged that he had solemnized marriage with the prosecutrix by preparing fake documents depicting the age of the prosecutrix.

Learned counsel for the petitioner contends that Rohit faced trial and he has been convicted and sentenced for the commission of offences under Sections 420 and 471 IPC and it has been concluded that the

commission of offence under Sections 363, 366-A, 506, 376, 467 and 468 IPC and 6 of the of the POCSO Act are not proved beyond the shadow of reasonable doubt and was acquitted on those counts. He further contends that subsequently Sunil and Mantu were nominated as accused and on the basis of their disclosure statements, the petitioner and co-accused, namely, Paramdeep have been nominated.

The allegation against the petitioner is to the effect that the forged certificate of the prosecutrix and Rohit were got prepared through him. It has been further stated that Sunil, Mantu and Paramdeep, who are declared as proclaimed persons, have been granted bail. Even the charges under Sections 120-B, 420, 467, 468 and 471 IPC have been framed against the co-accused. Furthermore, the co-accused, who were declared proclaimed persons, have been released on bail and the petitioner was never declared a proclaimed person. It has been further stated that the petitioner is not involved in any other case and in custody for a period of 02 months and 22 days. Challan qua petitioner has already been presented and his custodial interrogation is over. Furthermore, the case of the petitioner is at parity with co-accused, Paramdeep, who has been granted bail in terms of order dated 22.02.2022 passed in CRM-M-5034-2022.

Custody certificate of the petitioner has been placed on record.

Learned State counsel, on instructions from ASI Sunil Kumar, has not assailed the aforesaid factual aspects of the matter.

Keeping in view the fact that the petitioner is in custody for a period of 02 months and 22, his case is at parity with co-accused, namely, Paramdeep, who has already been granted bail, the investigation of the case is complete, challan has been presented and the co-accused Rohit has been

acquitted with regard to the offences under Sections 363, 366-A, 506, 376, 467 and 468 IPC and Section 6 of the POCSO Act, though convicted under Sections 420 and 471 IPC, no fruitful purpose will be served by detaining the petitioner behind the bars.

In such circumstances, sufficient grounds are made out to extend the concession of bail to the petitioner. Accordingly, without making any observation on the merits of the case, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned Chief Judicial Magistrate/Illaq Magistrate/Duty Magistrate/trial Court.

23.02.2022

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(VIVEK PURI)**JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No