

PAWAN KUMAR

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. D.S.Matya, Advocate for the petitioner.
Mr. Dhruv Sihag, AAG Haryana.

* * *

VIVEK PURI, J. (ORAL)

The petitioner is seeking regular bail in case bearing FIR No. 19 dated 22.01.2021 under Sections 363, 366 IPC and 6 of Protection of Children from Sexual Offences Act, registered at Police Station Sector 65, Gurugram.

Briefly, the FIR has been registered on the basis of the statement of the father of the victim alleging that the victim, who is aged about 18-19 years went missing from the house on 21.01.2021.

Learned counsel for the petitioner contends that the age of the victim as specified in the FIR is 18-19 years. Even in the Aadhar card, Annexure P-2, her date of birth has been mentioned as 14.11.2002 which indicates that she was more than 18 years of age at the time of occurrence. Besides in her statement recorded under Section 164 Cr.P.C., the victim has specified her age to be 18 years and it does not indicate that any threat, pressure or allurements was exercised upon her by the petitioner. She has voluntarily accompanied the petitioner. Furthermore, on 27.01.2021, the petitioner had solemnized marriage with the victim and even in the certificate of marriage, Annexure P-4, her date of birth has been mentioned as 14.11.2002. The statement of the victim during the course of trial has

been recorded. The petitioner is in custody for a period of 1 year, 9 months and 4 days and is not involved in any other case.

Learned State counsel has opposed the bail application on the score that the school record of the victim indicates that her date of birth is 10.01.2005 and she was less than 18 years of age at the time of occurrence. It has also not been disputed that the DNA analysis is not conclusive.

Be that as it may, the controversy as to whether the victim was of more than 18 years of age at the time of occurrence or not will be a debatable and moot point during the course of trial. The petitioner is in custody for a period of 1 year, 9 months and 4 days and is not involved in any other case. 6 witnesses still remain to be examined and the statement of the victim has already been recorded in the trial Court. The conclusion of trial is likely to take some more time and no fruitful purpose would be served by detaining the petitioner in further custody.

As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

(VIVEK PURI)
JUDGE

24.11.2022

Janki

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