

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

CRM-M-12150-2022 (O&M)

Date of Decision: 09.09.2022

DALIP SINGH

... PETITIONER

VS.

STATE OF HARYANA

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Manish Mehta, Advocate, for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

VIVEK PURI, J.(ORAL)

The petitioner is seeking regular bail in case bearing FIR No.315 dated 12.08.2021 under Sections 363, 366-A and 342 IPC registered at Police Station Kanina, District Mahendergarh.

Custody certificate has been placed on record.

Briefly, the aforesaid FIR has been registered on the basis of the statement of the father of the victim alleging that on 12.08.2021, the victim had gone to school but did not reach there. The complainant found that the petitioner has seduced the minor daughter with an intention to solemnize marriage with her.

Learned counsel for the petitioner contends that the date of birth of the victim in the Aadhaar Card (Annexure P-5) has been mentioned as 01.01.2003 and she was more than 18 years of age at the time of occurrence. During the course of trial, victim has wrongly given her date of birth to be 25.04.2005. As such, it will be debatable and moot point as to whether the penal provisions of Section 366-A IPC are attracted or not. Even there is lack of material to substantiate allegation to the effect that kidnapping/abduction was carried out to compel the victim for marriage or forcing her to sexual intercourse. The victim had refused to get herself

medico-legally examined. All the material witnesses have been examined. The petitioner is in custody for a period of 01 year and 06 days and not involved in any other case.

Learned State counsel has opposed the bail application on the score that the petitioner has been named by the victim in her statement under Section 164 Cr.P.C. and also during the course of her statement recorded in the trial Court. However, it has not been disputed that there is no allegation with regard to commission of penetrative sexual assault and even the victim and material witnesses have been examined.

The petitioner is in custody for a period of 01 year and 06 days and not involved in any other case. The age of the victim will be a debatable and moot point during the course of trial. There is no allegation with regard to commission of penetrative sexual assault. The material witnesses have been examined during the course of trial. As such, it cannot be said that the petitioner can be in a position to influence or win over the witnesses. The conclusion of trial may take some more time and 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 trial Court/Chief Judicial Magistrate//Duty Magistrate.

09.09.2022
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No