

NITIN YADAV

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Narender Kaajla, Advocate for the petitioner.

Mr. Zorawar Singh Chauhan, DAG Haryana.

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VIVEK PURI, J. (ORAL)

The petitioner is seeking regular bail in case bearing FIR No. 36 dated 12.02.2022 under Sections 365, added later 376(2)(n), Section 10 of Prohibition of Child Marriage Act, and Section 6 of Protection of Children from Sexual Offences Act, registered at Police Station Sector 20, Panchkula.

Briefly, the FIR has been registered on the basis of the statement of the father of the victim alleging that the victim is aged about 16 years and 8 months and had left the house without intimating anyone.

Learned counsel for the petitioner contends that in her statement recorded under Section 164 Cr.P.C., the victim had specifically stated that she had solemnized marriage with the petitioner and is residing with his family. He further submits that in the trial Court, victim had also moved an application for getting her statement recorded and for issuance of protection order. In the said application and the statement made in the Court, she has specified her age to be 19 years. Even the same age was projected to the petitioner during the period they were in relationship. The

victim is presently confined in protection home. Moreover, the statement of the victim as well as her parents have been recorded during the course of trial. It has been pointed out that even during the course of her deposition in the Court, the victim has stated that she had informed her age to be 19 years to the petitioner at the time of solemnization of their marriage.

Learned State counsel has opposed the bail application on the score that as per the Aadhar card, the age of the victim was less than 18 years at the time of occurrence. Furthermore, the victim had refused for medico-legal examination but she was found pregnant at the time when she was recovered from the company of the petitioner. Thereafter, the pregnancy was terminated and the report of DNA analysis has not yet been received. Out of 19, only 5 witnesses have been examined so far.

Be that as it may, the statement of the victim as well as her parents have been recorded during the course of trial. The victim has not levelled any allegation of threat, allurement or pressure exercised upon her when she left the house and had solemnized marriage with the petitioner. The age of the victim will be a debatable and moot point during the course of trial. Out of 19, only 5 witnesses have been examined so far. The custody certificate indicates that the petitioner is in custody for a period of 8 months and 01 day and is not involved in any other case. 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.

14.11.2022

Janki

(VIVEK PURI)
JUDGE

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