

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

**CRM-M-39504-2021(O&M)
Date of Decision: 18.04.2022**

Sanjay ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sukesh Kumar Jindal, Advocate for
Mr. Lakshay Bajaj, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

JASGURPREET SINGH PURI, J.(ORAL)

CRM-11973-2022

Learned counsel for the applicant/petitioner prays for withdrawal of the application for amendment of the present petition as he does not wish to press the same.

Dismissed as withdrawn.

CRM-12360-2022

Application for placing on record document Annexure P-6 is allowed subject to all just exceptions. Annexure P-6 is taken on record.

Main Case

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.498, dated 17.05.2019 under Sections 363, 366, 376(2)(n), 376(3) of IPC, 1860, Section 6 of POCSO Act and Section 10 of Prohibition of Child Marriage Act, 2006 (added later on and Section 365 of IPC deleted later on) registered at

2. It has been submitted by learned counsel for the petitioner that the petitioner is in custody from 04.06.2019, which is about 2 years and 9 months and it is a case where the allegations against the petitioner was that he had enticed away the daughter of the complainant. But when her statement was recorded under Section 164 of Cr.P.C. then she had rather categorically stated that she had married with the petitioner and as per the Aadhaar card, she is 19 years of age but she did not remember the actual year of birth. He submitted that earlier the petitioner had filed a petition before this Court for grant of regular bail which was dismissed as withdrawn on 09.09.2020 but thereafter, there had been a change of circumstance since for a number of times the prosecutrix as well as private witnesses were summoned and they were duly served but they did not turn up and ratherailable warrants were also issued in this regard still they did not turn up. He further referred to Annexure P-4 whereby the prosecutrix has also refused her medical examination after the registration of the FIR. He submitted that the marriage of the prosecutrix with the present petitioner was with free and voluntary consent. He further submitted that be that as it may once the prosecutrix as well as the private witnesses are not deliberately appearing and the petitioner has faced incarceration for about 2 years and 9 months, he may be considered for the grant of concession of regular bail

3. On the other hand, learned State counsel has submitted that it is correct that the petitioner is in custody from 04.06.2019, which is almost 2 years and 9 months and the prosecutrix and the private witnesses have not turned up despite service andailable warrants issued to them.

4. I have heard the learned counsel for the parties.

5. The petitioner is in custody from 04.06.2019, which is almost 2 years and 9 months. The prosecutrix as per Annexure P-4 had refused for her

medical examination and as per her statement under Section 164 of Cr.P.C., she has stated that she has married with the petitioner on her own consent. Apart from the same, despite number of adjournments granted by the learned trial Court and summons duly effected upon the aforesaid witnesses, they had not turned up for deposing. Furthermore, it is not the case of the State that in case, the petitioner is released on bail then he may abscond or he may influence any witness or he may tamper with any evidence.

6. Therefore, without commenting anything on the merits of the case and considering the custody of the petitioner, the petitioner is entitled for the grant of concession of regular bail. Consequently, the present petition is allowed and the petitioner is released on bail on his furnishing adequate bail/surety bonds to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

7. It is made clear that the aforesaid observations would not mean anything on the merits of the case, as the same are only for the purpose of deciding the present petition.

(JASGURPREET SINGH PURI)
JUDGE

April 18, 2022
Manpreet

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