

PARVESH

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Puneet Kakkar, Advocate for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

VIVEK PURI, J. (ORAL)

Custody certificate of the petitioner has been circulated today and the same is taken on record.

Parvesh-petitioner is seeking regular bail in the case bearing FIR No. 457 dated 17.12.2019 under Sections 363/366A/450 IPC, 1860 and Section 6 of POCSO Act, 2012, registered at Police Station Saran Faridabad, District Faridabad.

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 15 years and 11 months. On 16.12.2019, she went to tuition classes. However, she did not reach the tuition class and had not returned back. Efforts were made to trace her out but to no effect. It was suspected that the petitioner had kidnapped the victim.

Learned counsel for the petitioner contends that the date of birth of the victim has been recorded as 02.05.1999 in the Adhaar Card and as such she was aged more than 20 years at the time of occurrence. Moreover, the victim had voluntarily accompanied the petitioner to Uttar Pradesh and solemnized marriage

the Purohit in this regard. The photographs taken at the time of marriage are at Annexure P-2. Even in her statement recorded under Section 164 Cr.P.C. the victim has stated that she had gone with the petitioner to Allahabad, solemnized marriage in Arya Samaj Mandir, thereafter, went to Maharashtra, Aligarh and lived for a period of 01 month during which period they also developed physical relationship.

On a contrary, learned State counsel has opposed the bail application on the score that the date of birth of the victim as recorded in the school record and mentioned in the impugned order is 01.01.2003 and the victim was less than 18 years of age at the time of occurrence. Moreover, the statement of the victim is yet to be recorded during the course of trial.

It is significant to note that as per the Aadhaar Card, the date of birth of the victim has been reflected as 02.05.1999. The age of the victim will be a debatable question during the course of trial. Furthermore, the petitioner has sought to putforth a case of consensual relationship and in the event, the age of the victim comes out to be more than 18 years, this aspect of the matter is also required to be looked into during the course of trial.

As per custody certificate, the petitioner is in custody for a period of 01 year, 11 months and 19 days and is not involved in any other case. In the reply, it has been mentioned that out of 22 witnesses only 01 witness has been examined so far and the material witnesses are yet to be examined.

Keeping in view the entire circumstances emerging in the case and the period of incarceration undergone by the petitioner, sufficient mitigating circumstances are made out to extend the concession of the bail to the petitioner.

Without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty

Magistrate concerned.

The petition is allowed accordingly.

24.02.2022
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(VIVEK PURI)
JUDGE

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