

CRM-M-54136-2022

Date of Decision: 29.11.2022

PARKASH DASS

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Rahul Jaswal, Advocate for the petitioner.
Mr. Dhruv Sihag, AAG Haryana.

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VIVEK PURI, J. (ORAL)

The petitioner is seeking regular bail in case bearing FIR No.304 dated 07.10.2020 under Sections 363, 366-A IPC (Section 376 (2)(n), 376(3) IPC and 6 of Protection of Children from Sexual Offences Act added later on), registered at Police Station Industrial Sector 29 Panipat, District Panipat.

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 13 years has been kidnapped by the petitioner.

Learned counsel for the petitioner contends that the victim is Mohammaden by religion and she is aged about more than 15 years, solemnized marriage with the petitioner and is having one son from the wedlock. The victim is still residing in the house of the petitioner with his parental family. The statement of the victim has also been recorded during the course of the trial. The petitioner is in custody for a period of 1 year, 2 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 age of the victim as recorded in the FIR is 13 years and the

victim during the course of her cross-examination has admitted the fact that the petitioner had committed wrong act with her consent. The consent of the victim will be immaterial as she is less than 18 years of age and out of 16 only 4 witnesses have been examined.

Be that as it may, this aspect of the matter will be looked into and adjudicated by the learned trial Court at the appropriate stage of trial. Suffice it to say that the petitioner is in custody for a period of 1 year, 2 months and 4 days and is not involved in any other case. Out of 16 only 4 witnesses have been examined so far. 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.

29.11.2022

Janki

(VIVEK PURI)
JUDGE

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