

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

101

2023:PHHC:068379
CRM-M-23785-2023
DECIDED ON: 11.05.2023

Sunny Kumar

.....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. Rishu Mahajan, Advocate, for the petitioner.

Mr.Jaiteshwar S.Bhandari, AAG, Punjab.

Mr.Mitul Singh Rana, Advocate, for the complainant.

SANJEEV PRAKASH SHARMA, J (ORAL)

Learned counsel for the petitioner submits that the petitioner and the prosecutrix were having a love affair and there are whatsapp messages which he has placed on record to show that they were having in relation for more than a year. It is further submitted that age of the petitioner was mentioned in the School Certificate as 18.03.2005 and was although minor by six days on the date of occurrence but the said fact could not have been in the knowledge of the accused-petitioner who himself is of the age of 25 years. The relationship turns sour and therefore, the FIR has been lodged; he is not required for any custodial interrogation.

On the other hand, complainant's counsel submits that petitioner is minor in terms of provisions of The Protection of Children from Sexual Offences Act, 2012 (herienafter referred to as 'POCSO Act'). The petitioner does not deserve any indulge from this Court.

Learned AAG, Punjab supports the contention and submits that the prosecutrix was a minor.

I have considered the submissions while the POCSO Act lays down provisions for their being no scope of consent for a minor, this Court cannot be oblivious of the fact that exact age of a lady who is about to turn 18 would not be mere knowledge of a person who is in love affair with her. Consent and the cust of the age would have to be examined for the purpose of the criminality of the offence.

Keeping in view the aforesaid circumstances, I am inclined to grant anticipatory bail.

Allowed.

(SANJEEV PRAKASH SHARMA)
JUDGE

11.05.2023
mamta

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