

2023:PHHC:136728

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

CRM-M-45533-2023

Date of Decision: 19.10.2023

SOHIT KUMAR ALIAS AJAY KUMAR

... PETITIONER

VS.

STATE OF U.T. CHANDIGARH

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. R.K.Choudhary, Advocate
for the petitioner.

Mr. Anupam Bansal, Additional P.P.
for U.T. Chandigarh.

VIVEK PURI, J.(ORAL)

1. The petitioner is seeking regular bail in the case bearing FIR No. 0127 dated 28.07.2023 under Section 376(2)(n) IPC and Section 6 of the POCSO Act registered at Police Station Sector-31, Chandigarh.

2. Custody certificate has been placed on record.

3. Learned counsel for the petitioner contends that the victim was aged about 17 years and 04 months. The petitioner was in live-in-relationship with the victim and they have solemnized marriage on 31.12.2022. The victim is running 7th month of pregnancy and she is residing with the family members of the petitioner. The victim had also submitted an affidavit, Annexure P-3, in this regard. Moreover, the photographs, Annexure P-4, also indicate that they have solemnized marriage. The petitioner is in custody for a period of 02 months and 21 days. The investigation of the case is complete and challan has been presented.

4. Learned counsel for the respondent-U.T. Chandigarh has opposed the bail application on the score that the victim was less than 18

years of age at the time of occurrence and consequently the penal provisions of Protection of Children from Sexual Offences Act have been invoked in the instant case. It has been further submitted that as per allegations in the FIR, it was mentioned that the victim was in live-in-relationship with petitioner and had become pregnant. However, it has been further submitted that in her statement under Section 164 Cr.P.C., the victim has stated that she has solemnized marriage with the petitioner.

5. It is significant to note that the petitioner is in custody for a period of 02 months and 21 days. The petitioner and the victim are stated to have solemnized marriage. The legality and validity of such relationship will be a debatable and moot point during the course of trial. The victim is stated to be residing with the parental family members of the petitioner. The petitioner is involved in another case but the same is under Section 13 of the Public Gambling Act. The investigation of the case is complete and challan has been presented. The conclusion of trial is likely to take some time and no fruitful purpose will be served by detaining the petitioner in further custody.

6. In such circumstances, sufficient grounds are made out to extend the concession of bail to the petitioner. Accordingly, without making any observation on the merits of the case, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

19.10.2023
smriti

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No