

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

218

Criminal Misc. No. M-7206 of 2024

Date of decision :-15.02.2024

Aman

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. S.K. Tripathi, Advocate
for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

NIDHI GUPTA J. (Oral)

Prayer in this first petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner during pendency of the trial in case FIR No.0666 dated 25.10.2023 (Annexure P-2) under Sections 363, 366-A, 216 and 120-B IPC and Section 6 of POCSO Act, 2012, registered at Police Station Mujesar, District Faridabad.

The present FIR was registered on the basis of statement of father of the alleged victim, which reads as follows :-

“...I have three children in which two sons and one daughter. The name of the daughter is Kajal and her age is 16 years. She left the house at about 1:30 PM on 21.10.2023 without informing anybody else. I and my family searched out to her but no any clue has been received about my daughter Durga. I checked my almirah then I came to know that some money and jewwllary has been missing from the same. Now I came to know that my daughter has

performed marriage with one boy namely who is residing on rent in village Saran and she has sent the photographs of marriage on my phone. Aman has enticed away to my daughter namely Durga aged about 16 years for getting marriage. Kindly my daughter may be searched out and legal action may be taken against Aman.”

Learned counsel for the petitioner *inter alia* submits that prior to registration of the FIR i.e. on 25.10.2023, the petitioner had solemnized the marriage with the victim on 21.10.2023. It is submitted that in the FIR, the age of the victim is mentioned as 16 years, however, in actual fact, the age of the victim, at the time of incident, was 18 years and 11 days. In this regard, learned counsel for the petitioner refers to the Marriage Certificate dated 21.10.2023 (Annexure P-1), wherein her date of birth is mentioned as 10.03.2005. It is further submitted that thereafter the complainant had entered into a compromise with the petitioner, as evident from Annexure P-3, which is the affidavit dated 03.1.2024, furnished by the complainant. Learned counsel submits that the victim is still residing in the matrimonial home with the parents of the petitioner.

Notice of motion.

On asking of the Court, Mr. Surinder Kumar Dagar, DAG, Haryana accepts notice on behalf of respondent No.1-State and filed the custody certificate dated 13.2.2024 in Court today. The same is taken on record. Copy thereof is supplied to the counsel opposite.

As per the custody certificate, the petitioner has undergone custody as under-trial for a period of 02 months and 06 days. Learned State counsel, on instructions, submits that the date of birth of the

victim is 10.03.2008. He further submits that the challan in the case has been filed but the charges are yet to be framed.

I have heard learned counsel for the parties and gone through the case file carefully.

Without commenting on the merits of the case, however, keeping in view the totality of facts and circumstances of the case, including the fact that the trial of the case is likely to consume considerable time as after presentation of the challan, charges have not yet been framed so far; and keeping in view the custodial period of the petitioner; and the fact that there is no other case pending against him, his further custody may not be justified; without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner-Aman s/o Amit Ram be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

The petition is allowed.

February 15, 2024

Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No