



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

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CRM-M-2774-2024 (O&M)

Date of decision: 30.07.2024

ASHUTOSH ALIAS ASHU

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present : Mr. Sitanshu Sharma, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

HARPREET KAUR JEEWAN , J.

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.179 dated 03.04.2022 under Sections 363, 366-A IPC (Sections 344, 506 IPC and Sections 6 and 17 of the POCSO Act, 2012 added later on) registered at Police Station Adarsh Nagar, Faridabad, District Faridabad.

2. Reply by way of an affidavit of Vinod Kumar, HPS, Assistant Commissioner of Police, Ballabgarh, Faridabad along with copy of MLR of victim (Annexure R-1), disclosure statement of the petitioner (Annexure R-2) and school certificate of victim (Annexure R-3) as well as custody certificate dated 27.07.2024 filed on behalf of the respondent-State are taken on record. As per the custody certificate, the petitioner has undergone 02 years 03 months and 08 days of custody as under-trial.



3. Learned counsel for the petitioner contends that the petitioner is in custody since 20.04.2022. The statement of the prosecutrix has already been recorded during the trial. Both the prosecutrix and the petitioner intend to solemnize marriage with each other. He further contends that conclusion of trial will take sufficient time. The petitioner has been falsely implicated in this case.

4. Learned State counsel has opposed the bail petition on the ground of gravity of allegations against the petitioner. Learned State counsel on instructions from SI Manoj Kumar has informed that the prosecutrix has supported the case of the prosecution in the statement recorded under section 164 Cr.P.C. as well as in the statement recorded during the trial. The medical evidence is also against the petitioner.

5. I have considered the aforesaid contentions and perused the paper-book.

6. As per the status report, the age of the prosecutrix has been verified from the school. The school certificate of the victim dated 21.04.2022 is annexed as Annexure R-3, whereas the date of birth of the prosecutrix has been recorded as 01.01.2006. As per the statement of the prosecutrix recorded under Section 164 Cr.P.C. (Annexure P-3), on 02.04.2022, Ashu-present petitioner called the prosecutrix to Ferojabad from where she was taken to his friend's house. They stayed there for 4 days. Thereafter on 04.04.2022, the prosecutrix was taken to Ganga Nagar. The prosecutrix lived with the co-accused of the petitioner namely Bacha from 02.04.2022 to 04.04.2022. Thereafter, the petitioner-Ashu hired a room and on 08.04.2022, petitioner-Ashu committed wrong act with her. As per the medico legal report (Annexure R-1), the opinion has been given that



possibility of sexual intercourse cannot be ruled out. As per the said report, hymen was ruptured and the age of the prosecutrix has been recorded as 16 years.

- 7. Keeping in view the age of the prosecutrix and the attending circumstances of the case, the petitioner is not entitled to bail.
- 8. As such, the petition stands dismissed.
- 9. However, keeping in view the fact that the petitioner is in custody for more than two years, the trial Court is directed to expedite the trial and decide the matter expeditiously preferably within a period of 04 months on receipt of certified copy of this order.
- 10. All pending miscellaneous application(s), if any, stands disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

30.07.2024
P.Bhatt

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