



CRM-M-52404-2024 (O&M)

1

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

CRM-M-52404-2024 (O&M)

Date of Decision:-21.01.2025

Inderjeet @ Ashu

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Rhythem Bajaj, Advocate for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana

JASGURPREET SINGH PURI J.(Oral)

1. The present petition has been filed under Section 483 of BNSS, 2023, for grant of regular bail to the petitioner in case bearing FIR No.105 dated 09.04.2023 under Section 346 of IPC (Sections 363, 366 of IPC and Section 6 of POCSO Act added later on and Section 346 of IPC was deleted), registered at Police Station Sector-14, Gurugram, District Gurugram.

2. Learned counsel appearing on behalf of the petitioner submitted that petitioner has faced incarceration from 07.05.2023 which is almost 1 year, 08 months and 14 days. He submitted that 13 prosecution witnesses out of 20 cited prosecution witnesses have been examined including the prosecutrix and all the material witnesses have been examined. He further submitted that it is a case where the FIR was lodged by the father of the prosecutrix, stating that his daughter who is 18 years old could not be found because she had not returned home and on the basis of the aforesaid statement the FIR was



registered. Thereafter, the petitioner and the girl were found in Abohar, District Fazilka, Punjab, where the prosecutrix got her statement recorded before the learned JMIC vide Annexure P-3. In her statement, she stated that she was having a love affair with the petitioner and wanted to marry him, but the parents of the prosecutrix wanted her to marry someone else. She expressed her desire to solemnize marriage only with the petitioner. Learned counsel submitted that thereafter when the petitioner was arrested, since the court of jurisdiction was in Gurgaon, the prosecutrix made another statement before the learned JMIC, Gurgaon, under Section 164 Cr.P.C., in which she supported the prosecution's version and took a U-turn under the influence of her parents. Thereafter even at the time of trial also under the influence of her parents, she again supported the prosecution version when she stepped into the witness box. However, it was in fact a case of run away couple and the prosecutrix was of the age of 18 years which is clear from the FIR which was lodged by her father and also from the aforesaid statement which was recorded before the learned JMIC, Abohar, wherein it was stated that the age of the prosecutrix was 18 years. In this way, no offence has been committed by the petitioner. He submitted that during evidence, it was so pleaded by the complainant and the prosecutrix that she was of the age of more than 17 years and less than of 18 years of age. He further submitted that in fact this aspect regarding age is to be seen at the time of trial by way of adducing evidence. However, on the face of it since the father of the prosecutrix himself had lodged the present FIR and stated his daughter to be 18 years of age and considering the aforesaid custody of the petitioner and the stage of the trial, the petitioner may be considered for the grant of regular bail.



3. On the other hand, learned State counsel submitted that, insofar as the custody of the petitioner is concerned, the same is correct and 13 prosecution witnesses out of 20 cited prosecution witnesses have been examined including the prosecutrix. He however submitted that this is a case where, although initially before the learned JMIC Abohar, the prosecutrix stated that she was 18 years old and had chosen to go with the petitioner of her own choice to marry him but later on, when she appeared before the learned JMIC, Gurgaon and at the time of trial before the learned Trial Court, she stated that she did not go with the petitioner of her own will. Therefore, considering the aforesaid testimony of the prosecutrix, the petitioner does not deserve the concession of regular bail

4. I have heard the learned counsels for the parties.

5. The custody of the petitioner has come out to be about 01 year, 08 months and 14 days and as per the learned counsels for the parties, 13 out of 20 prosecution witnesses have already been examined. A perusal of Annexure P-3 would show that the prosecutrix, while giving her statement before the learned JMIC, Abohar, has mentioned that she is 18 years old, and in her statement, she stated that she chose to go with the petitioner of her own choice to marry him because the parents of the prosecutrix wanted to marry her somewhere else. Thereafter she had taken a different stand before the learned Trial Court. A perusal of the FIR would show that father of the prosecutrix who is the complainant had so stated that his daughter who is 18 years old is missing. So far as the age of the prosecutrix is concerned, this can only be determined at the time of trial while appreciating the evidence led by both parties. However, considering the fact that in the FIR and in the statement (Annexure P-3), the age of the prosecutrix has been stated as 18



years, this Court, for the purpose of considering the grant of bail to the petitioner and without expressing any opinion on the merits or the age of the prosecutrix, is of the view that considering the long custody of the petitioner and the stage of the trial, the petitioner deserves the concession of regular bail.

6. Consequently, the present petition is allowed. The petitioner shall be released on regular bail, if not required in any other case, subject to furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

7. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

21.01.2025

shweta

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