



CRM-M-35503-2024 (O&M)

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

CRM-M-35503-2024 (O&M)

Date of Decision:-21.01.2025

Balkaran Singh @ Karan

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Rajesh Bhatheja, Advocate for the petitioner.

Mr. P.S. Bhandari, AAG, Punjab.

JASGURPREET SINGH PURI J.(Oral)

1. The present petition has been filed under Section 439 of Cr.P.C., for grant of regular bail to the petitioner in case bearing FIR No.112 dated 09.09.2023 under Sections 363 and 366-A of IPC (Section 376 of IPC and Section 6 of POCSO Act recorded later on) registered at Police Station Nihal Singh Wala, District Moga.

2. Learned counsel appearing on behalf of the petitioner submitted that petitioner is in custody for 01 year, 04 months and 09 days, and 15 out of 28 cited prosecution witnesses including the prosecutrix, have been examined. He further submitted that as per the allegations contained in the FIR, the present petitioner had enticed away the daughter of the complainant who was about 15 years of age at that point of time. Thereafter on the basis of the FIR, the petitioner was apprehended. He further submitted that in fact the prosecutrix has deposed before the Court during the course of trial that she



had gone with the petitioner on her own will and consent and expressed a desire to marry him and considering the aforesaid deposition, the petitioner may be considered for the grant of regular bail. He also submitted that as an alternative, the petitioner may be granted interim bail to enable him to marry the prosecutrix.

3. On the other hand, learned State counsel submitted that it is a case where the prosecutrix was of the age of 15 years at that time and as per the allegations, the petitioner had enticed away her and had established physical relations with her and thereafter the prosecutrix became pregnant and she underwent an abortion probably because of the reason that she was 15 years old at that point of time. He further submitted that considering the gravity and seriousness of the offence, the petitioner may not be granted regular bail. He also submitted that it is a case where, even if the prosecutrix has stated during the course of the trial that she had gone with the petitioner on her own will and consent, the same is insignificant in view of the fact that there can be no consent of a minor and it is a case of serious consequences particularly in view of the fact that she became pregnant and thereafter she underwent an abortion. Learned State counsel further submitted that even otherwise also no interim bail can be granted to the petitioner because even today the prosecutrix is 16 years old and she is a minor and even the petitioner is of the age of 19 years and is not of marriageable age and therefore no such interim bail should be granted to the petitioner.

4. Mr. Sandeep Sharma, Advocate, has appeared on behalf of the prosecutrix and submitted that the matter has been compromised between the parties and therefore he does not oppose the grant of bail to the petitioner.



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

6. The custody of the petitioner has come out to be about 01 year, 04 months and 09 days and as per the learned counsels for the parties, 15 out of 28 prosecution witnesses including the prosecutrix have already been examined. It is a case where as per the allegations the petitioner had enticed away the minor daughter of the complainant and the prosecutrix at that point of time was 15 years old. The petitioner established physical relations with the prosecutrix and thereafter the prosecutrix became pregnant and subsequently underwent an abortion. As per learned counsels for the parties, the prosecutrix got her statement recorded under Section 164 Cr.P.C., and even while deposing at the time of trial, she stated that she had gone with the petitioner on her own will and consent. This Court is of the considered view that consent of a minor is insignificant in view of the fact that the prosecutrix was a minor at the time of incident. As per the allegations, the prosecutrix was 15 years old at that point of time and also became pregnant. Therefore, even if the prosecutrix has stated at the time of trial or at the time of recording her statement under Section 164 Cr.P.C. that she had gone with the petitioner on her own will and consent, that itself cannot become a ground for granting regular bail to the petitioner. This Court is of the view that considering the gravity and seriousness of the offence, the petitioner does not deserve the concession of regular bail.

7. So far as the alternate prayer made by learned counsel for the petitioner that the petitioner may be granted interim bail so as to marry the prosecutrix is concerned, the same is also unsustainable in view of the fact that admittedly the prosecutrix is still 16 years old and the petitioner is 19



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years old and therefore no interim bail can be granted for getting both of them married as both are not of marriageable age.

8. Consequently, finding no merit in the present petition, the same is hereby dismissed.

9. 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

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