



207

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

**CRA-S-2890-2024 (O&M)
Date of decision: 03.03.2025**

DALPAT RAM

...Appellant(s)

VERSUS

STATE OF HARYANA AND ANOTHER

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. S. K. Bawa, Advocate
for the appellant.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

Mr. Saleem Ahmed, Advocate
for respondent No.2.

JASGURPREET SINGH PURI, J. (Oral)

1. The present is an appeal filed by the appellant challenging the order passed by the learned Additional Sessions Judge (Fast Track Special Court for trial of offences under POCSO Act), Nuh dated 20.06.2024, vide which the application for grant of regular bail to the appellant was dismissed.

2. Learned counsel for the appellant submitted that the appellant is in custody from 23.12.2023 and the allegations against the appellant were that he had enticed away a minor girl of the age of about 16½ years and thereafter, had established physical relations with her. He further submitted that it is a case of consensual relationship although the girl was a minor but it was not within the knowledge of the appellant that the girl was a minor. He further submitted that



the prosecutrix has been examined and at the time when she got her statement recorded before the learned Magistrate under Section 164 Cr.P.C. she stated that she had gone with the appellant on her own will and thereafter, she came under the influence of her parents especially her father, who is the complainant in the present case and thereafter, took a u-turn during the trial at the time of deposition before the Court. He further submitted that rather the appellant and the girl after some time also filed a petition for grant of protection before this Court and vide Annexure P-2 dated 10.11.2023, the same was disposed of, which shows that the girl although was minor but she was a willing party and both the appellant and the minor girl were wanting to marry each other but afterwards with the influence of the father of the girl, they could not get marry.

3. On the other hand, Mr. Gagandeep Singh Chhina, AAG, Haryana submitted that it is correct that the appellant is in custody from 23.12.2023 and the prosecutrix stands examined. He further submitted that since the prosecutrix has supported the prosecution version, the appellant is not entitled for grant of regular bail. He also submitted that so far as the petition filed for grant of protection by the parties is concerned, the same is matter of record and regarding which order has been passed vide Annexure P-2 by a Coordinate Bench of this Court.

4. Learned counsel for the complainant-father of the minor girl submitted that consent of a minor girl would be of no significance even though she had stated while appearing before the learned Magistrate while recording her statement under Section 164 Cr.P.C. He further submitted that rather at the time when the petition for grant of protection was filed by the daughter of the



complainant, then although she was a signatory to the aforesaid petition but the Aadhar Card which was attached with the aforesaid writ petition was a fabricated one regarding which a complaint was made to the police and rather the provisions of Section 420 and 468 of the IPC were added in the FIR itself and therefore, the appellant does not deserve the concession of regular bail.

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

6. It is a case where the appellant is in custody from 23.12.2023, which is more than 1 year and 2 months as per the learned counsels for the parties. The prosecutrix already stands examined. It is a case of the appellant that the girl was of the age of about 16½ years, although she stated before the learned Magistrate at the time of recording her statement under Section 164 Cr.P.C. that she is 18 years of age and she had consented and wanted to marry the appellant. This Court is of the considered view that consent of a minor girl is of no significance but at the same time this Court also cannot lose sight of the fact that the minor girl herself had filed a petition for grant of protection before this Court and the same has not been disputed by any of the parties because the order passed by a Coordinate Bench of this Court has been attached alongwith the present petition as Annexure P-2. Apart from the above, the appellant has already faced incarceration for more than 1 year and 2 months and the prosecutrix stands examined and therefore, considering the aforesaid facts and circumstance, this Court is of the considered view that the appellant deserves the concession of regular bail.

7. Consequently, the present appeal is allowed. The order dated 20.06.2024 passed by the learned Additional Sessions Judge (Fast Track Special



Court for trial of offences under POCSO Act), Nuh is hereby set aside. The appellant shall be released on regular bail, if not required in any other case, subject to his furnishing bail bonds/surety bonds to satisfaction of the learned trial Court/Chief Judicial Magistrate concerned.

8. Miscellaneous applications, if any, shall also stand disposed of since the main case has been decided.

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 appeal only.

(JASGURPREET SINGH PURI)
JUDGE

03.03.2025
Chetan Thakur

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