

Law Today Live Doc. Id. 15261

PUNJAB AND HARYANA HIGH COURT

Before: Hari Pal Verma, J.

Criminal Misc. No.M-23254 of 2020

Decided on: 21.08.2020

Vinod Kumar Gupta

Petitioner

Versus

State of Punjab

Respondent

Present:

Mr. Vishavjeet Singh Rishi, Advocate for the petitioner.

Mr. Pawan Sharda, Sr. DAG, Punjab.

Indian Penal Code, 1860 (45 of 1860), Section 366, 376 – Protection of Children from Sexual Offences Act, 2012 (32 of 2012), Section 4 -- Code of Criminal Procedure, 1973 (2 of 1974), Section 439 – Rape case – Regular bail -- Prosecutrix in her statement recorded u/s 164 CrPC has stated that she wants to take the case back and wants to marry the petitioner -- Furthermore, she has refused to get herself medically examined -- Considering the fact that the petitioner, who is 19 years of age, is in custody since 15.02.2020 and his culpability is yet to be established during trial, which is not likely to be concluded in near future -- Court deemed appropriate to release the petitioner on regular bail – Petition allowed.

(Para 6,7)

HARI PAL VERMA, J. (ORAL) –

1. The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

2. The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.26 dated 12.02.2020 under Sections 366 and 376 IPC and Section 4 of the POCSO Act registered at Police Station Tibba, District Ludhiana.

3. Learned counsel for the petitioner refers to affidavit dated 17.07.2020 (Annexure P-3) of the prosecutrix, wherein her date of birth is shown as 01.02.2001 and her statement dated 12.02.2020 (Annexure P-5) recorded under Section 164 CrPC, wherein she has stated that she wants to take the case back and also wants to solemnize marriage with the petitioner. He has argued that the petitioner is young boy of 19 years of age and the petitioner and prosecutrix had liking towards each other, but it was not liked by the parents of the girl. The allegations that the petitioner subjected the girl to physical relations are false. The victim has refused to get herself medically examined. The petitioner is in custody since 15.02.2020.

4. Learned State counsel does not dispute the custody of the petitioner. However, he has submitted that the prosecutrix is minor. During investigation, it has been found that she was 16 years of age, as per her Aadhar Card.

5. I have heard learned counsel for the parties.

6. The prosecutrix in her statement recorded under Section 164 CrPC has stated that she wants to take the case back and wants to marry the petitioner. Furthermore, she has refused to get herself medically examined. Considering the fact that the petitioner, who is 19 years of age, is in custody since 15.02.2020 and his culpability is yet to be established during trial. The trial in the case is not likely to be concluded in near future, this Court deems it appropriate to release the petitioner on regular bail.

7. Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of his bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate.

Petition allowed.
