

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

Sr. No.202

CRM-M-17972-2020 (O&M)

DATE OF DECISION: August 31, 2020

RAHUL

..PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Aditya Sanghi, Advocate, for the petitioner.
Mr. Munish Sharma, AAG, Haryana.
Mr. Sumit Sharma, Advocate, for the complainant.

SUDHIR MITTAL, J. (ORAL)

The petitioner seeks grant of regular bail in case FIR No. 03 dated 03.01.2020 registered at Police Station Sadar Narnaul, District Mahendergarh under Sections 363 & 366-A IPC and Section 4 of POCSO Act, 2012.

Learned counsel for the petitioner submits that the petitioner had a love affair with the minor girl and they eloped together. The fact that they were in love and that she accompanied him of her own free will is evident from her refusal to get a medical done when she was recovered on 11.01.2020. Subsequently, the girl was subjected to a medical examination on 19.02.2020 and a perusal thereof shows that there is no sexual intercourse. However, possibility of sexual assault could not be ruled out. Thus, Section 4 POCSO Act, 2012 is not attracted and at the most, Section 8 of the said Act would apply whereunder, the maximum sentence is 05 years. Considering the fact that there was a consensual relationship between the

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parties as well as the fact that the maximum sentence is 05 years, the petitioner deserves to be released on regular bail. He has been in custody since 29.02.2020 and the trial is not likely to be concluded at an early date as charges have also not been framed as yet.

Reply dated 18.08.2020 on behalf of State has been filed in Court. The same is taken on record.

Learned State counsel admits that charges have not yet been framed and thus, the trial is not likely to be concluded at an early date. The submission regarding Section 4 of the said Act not being attracted in the facts and circumstances of this case, has also not been rebutted.

Thus, it is apparent that the girl eloped with the petitioner as she was in love with him. In the facts and circumstances of this case, the maximum sentence imposable upon the petitioner is 05 years, as the parties have compromised as is evident from affidavits attested on 04.06.2020, copies of which has been annexed as Annexure P-7 & P-8. The trial is also not likely to be concluded at an early date and thus, I deem it appropriate to grant regular bail to the petitioner.

Accordingly, the petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

CRM-15481-2020

To be listed on 30.09.2020 for payment of Court fee.

August 31, 2020

Ankur

Whether speaking/reasoned

Yes

Whether Reportable

No

**(SUDHIR MITTAL)
JUDGE**