

In the High Court of Punjab and Haryana at Chandigarh

Crl. Misc. No. M-38630 of 2015
Date of Decision: 26.11.2015.

Ravi Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Partesh Bir Sidhu, Advocate
for the petitioner.

Mr. A.S.Sidhu, AAG, Punjab.

SABINA, J.

Petitioner has filed this petition under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.' for short) seeking regular bail in FIR No. 57 dated 2.4.2014 under Section 363, 366-A, 376, 120-B of the Indian Penal Code, 1860 and Section 4 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Sadar Fazilka, District Fazilka.

FIR in question was got registered at the instance of Dropati-mother of the prosecutrix. Case of the complainant was that on 26.3.2014, petitioner had enticed the prosecutrix who was aged about 14 years on the pretext of marriage. Prosecutrix was recovered on 15.10.2014 and her statement was recorded. Prosecutrix stated that on 26.3.2014, she had been kidnapped by the petitioner on the false promise of marriage. Petitioner took the prosecutrix to Uttar Pradesh where the offence of rape was committed.

Learned counsel for the petitioner has submitted that as per the Aadhar Card (Annexure P-3), the year of birth of the prosecutrix was 1997. The genuineness of the said card had been admitted by the prosecutrix in her cross-examination. Prosecutrix and the petitioner had performed marriage and had lived together as husband and wife for seven months. Petitioner had been falsely involved in this case at the instance of the parents of the prosecutrix.

Learned State counsel, on the other hand, has opposed the petition and has submitted that the prosecutrix was a minor and as per her school leaving certificate, she was born on 6.5.2000. Prosecutrix while appearing in the witness box has duly supported the prosecution case.

In the present case, although, the case of the prosecution is that the prosecutrix was aged about 14 years at the time of occurrence, whereas, as per the Aadhar Card (Annexure P-3), the prosecutrix was born in the year 1997. The genuineness of Annexure P-3 was admitted by the prosecutrix in her cross-examination. Aadhar Card (Annexure P-3) has been exhibited as Exhibit D-1 during trial. Prosecutrix had also identified her signatures as well as photograph on marriage agreement dated 28.4.2014 (Annexure P-5). Prosecutrix had stayed with the petitioner for about seven months before her statement was recorded by the police.

Keeping in view the facts and circumstances of the present case and without expressing any opinion on the merits of the case, it would be just and expedient to order the release of the petitioner on bail.

Accordingly, this petition is allowed. Petitioner be admitted to bail subject to the satisfaction of Chief Judicial Magistrate, Fazilka.

**(SABINA)
JUDGE**

November 26, 2015
Gurpreet