

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

CRM-M-39610-2015

Date of decision: 03.12.2015

Anand Mishra

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Vaibhav Sehgal, Advocate
for the petitioner.

Ms. Anmol Grewal, AAG, Punjab.

RAMESHWAR SINGH MALIK, J. (ORAL)

Petitioner seeks bail pending trial in FIR No.70 dated 09.05.2015 under Sections 363, 366-A IPC (Section 376 IPC read with Sections 4 & 6 of Protection of Children from Sexual Offences Act added later on), registered at Police Station Daba, District Ludhiana.

Learned counsel for the petitioner places heavy reliance on Annexure P-2, to contend that the prosecutrix went with the petitioner on her own. Petitioner did nothing except to fulfill the wish of the prosecutrix. Her statement recorded under Section 164 Cr.P.C. is based on an afterthought and concocted story just to accuse the petitioner. He prays for allowing the present petition.

On the other hand, learned counsel for the State, on instructions from ASI Kuljit Singh, Police Station Daba, Ludhiana, submits that petitioner acted cleverly, while kidnapping the minor prosecutrix. She further submits that since the petitioner was the only accused and the allegations

were direct and serious, he is not entitled for bail pending trial. She prays for dismissal of the present petition.

After hearing learned counsel for the parties at considerable length, careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that keeping in view the totality of facts and circumstances of the case, particularly the contents of Annexure P-2, petitioner has been found entitled for bail pending trial. It is so said because the story put forth by the prosecutrix in her statement under Section 164 Cr.P.C. seems to be based on an afterthought and concoction which does not appeal to reason. Contents of Annexure P-2 speak volumes against the story put forth in the FIR. In such a situation, it shall be the debatable issue before the learned trial Court whether the petitioner, as a matter of fact, has committed any offence or not.

In view of the above and without commenting anything further on merits at this stage, lest it should prejudice the rights of either of the parties, instant petition is allowed. Petitioner is directed to be released on bail pending trial on his furnishing adequate bail bonds/surety bonds to the satisfaction of learned trial Court.

Disposed of, accordingly.

[RAMESHWAR SINGH MALIK]
JUDGE

03.12.2015
vishnu