

CRM-M-12381-2017

Date of Decision : 28.08.2017

Sumit

.....Petitioner

versus

State of Haryana

....Respondent

CORAM : HON'BLE MR. JUSTICE SUDHIR MITTAL**Present:** Mr. Saurabh Sharma, Advocate
for the petitioner.

Mr. Sanjay K. Saini, AAG, Haryana.

Mr. D.K. Prajapati, Advocate
for the complainant.**SUDHIR MITTAL, JUDGE (ORAL)**

Mr. D.K. Prajapati, Advocate has put in appearance on behalf of the complainant and files his power of attorney in the Court today. The same is taken on record.

The present petition arises out of FIR No.270 dated 13.08.2016 under Sections 363, 366-A, 376-D IPC and Section 6 of the POCSO Act registered at Police Station Pundri, District Kaithal.

According to the allegations made in the FIR, the petitioner and one, Sonu took the daughter of the complainant namely, Anu at about midnight on 12.08.2016. According to the FIR, complainant's daughter, Anu was taken away on motorcycle.

Learned counsel for the petitioner states that in the statement dated 13.08.2016 recorded by Anu under Section 164 Cr.P.C., she stated that she went away of her own free will and that Sonu and Sunil left her home later. Subsequently, in the statement recorded on 24.08.2016, she accused both Sonu and the petitioner of having kidnapped her and then raping her.

Learned counsel for the petitioner has further taken me through the challan filed by the police wherein it is recorded that Anu had refused to undergo medical examination after she had been recovered by the police, where after, she had been sent to the Bal Sewa Aashram. He further contends that Sonu had a love affair with Anu whereas the petitioner was only acting as a go-between.

Learned counsel for the State, on instructions from ASI Jaipal Singh, submits that the prosecution evidence is going on and that the prosecutrix as well as the complainant have been examined. He also submits that the police investigation *prima facie* shows a case of an affair between Sonu and Anu.

Learned counsel for the complainant places reliance upon the disclosure statement of the accused persons wherein they have allegedly admitted to have committed rape on Anu. He further submits that the petitioner was involved in a heinous offence as Anu is a minor and therefore, he should not be granted the concession of bail.

It is not in dispute that the petitioner has been in custody since 24.08.2016. The trial is an advanced stage and the prosecutrix as well as the complainant have already been examined.

Considering the nature of the allegations involved in the present case, I deem it appropriate to grant regular bail to the petitioner to the satisfaction of the Chief Judicial Magistrate, Kaithal.

It is, however, made clear that in case, the petitioner makes any attempt to interfere with the trial or to threaten or in any way influence the witnesses involved, the complainant and the Investigating Agency would both be at liberty to seek cancellation of bail.

(SUDHIR MITTAL)
JUDGE

28.08.2017

Neha

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No