

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

**CRM-M-16372-2017
Date of decision :18.09.2017**

Akash

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR.JUSTICE H.S. MADAAN

Present : Mr. Deepam Raghav, Advocate
for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J.

This application for grant of regular bail has been filed by petitioner – Akash an accused in FIR No. 512 dated 27.12.2016 for offences under Sections 323/34/365 IPC (Sections 212/325/34 IPC added later on), registered at Police Station Sadar, District Sonapat.

Briefly stated facts of the case are that complainant Narender son of Ram Karan Saini resident of Kabirpur had set the criminal machinery into motion by getting his statement recorded with the police on 27.12.2016, in which, he stated that Sumit son of Bhim Singh resident of Gali No.3,

Narender Nagar, Sonapat had taken a shop forming part of his house on rent for running business of domestic gas agency; that about 6 months earlier Sumit had vacated the shop; that on the said day at about 5 p.m. said Sumit kidnapped his sons Aman aged about 10 years & Deepansu aged about 4 years, besides Aryan son of Ravinder Sharma aged about 11 years in Alto car bearing No.HR-10G-4554; that when they contacted Sumit on mobile No.97297-04346, he told them that he was coming but he did not turn up; that at about 8:30 Aman son of Narender called him on phone of some person stating that Sumit had caused injuries to him and had thrown him out of the vehicle near village Devru; that he had taken away two other boys along with him, Aman was admitted in Sygnus Hospital. The complainant prayed that missing children be searched and action be taken against Sumit and his friends.

After registration of formal FIR, the case investigated, kidnapped boy Aryan was recovered from Hanuman Colony, Sugar Mill, Sonapat. However, similarly kidnapped boy Deepanshu was recovered from Railway Station, Delhi. Accused were arrested in this case, accused – Akash is in custody and facing trial in the Court of Additional Sessions Judge, Sonapat. He is seeking regular bail in this case, which is being opposed by the State counsel.

Learned counsel for the petitioner has contended that the petitioner is not named in the FIR, no test identification parade was arranged to get him identified from the eye-witnesses. The conclusion of trial is likely take considerable time. The petitioner is in custody for last

more than 8 months, as such, he be granted concessions of regular bail. Whereas this request is being opposed by the State counsel contending that he has been a party to a very heinous crime of kidnapping of three minor boys. The main accused Sumit could not be arrested. The trial is at preliminary stage and statements of witnesses are yet to be recorded, if granted concession of regular bail, there is likelihood of petitioner absconding and tampering with the prosecution evidence.

After hearing rival contentions I find that the petition is doomed for failure, merely because of the fact that the petitioner is not named in the FIR does not provide any benefit to him since FIR is not a substantive piece of evidence and its only purpose is to set criminal machinery into motion, the minute and precise incident may not be given therein. The names of the culprits and role played by them in the incident comes out to be there after registration of the FIR and during interrogation. If one accused takes names of co-accused of his having participation in the crime that does not effect the merits of the case since statement of a co-accused may not be admissible during the trial, but it can certainly provide a lead during investigation and can be taken into consideration. The incident of kidnapping of minor children for the purpose of ransom, their sexual abuse and going to the extent of murdering them are increasing day by day, the culprits responsible for such crime are to be dealt with sternly and cannot be shown any leniency. The gravity and seriousness of allegations against the petitioner do not call for his release on bail, as such, the apprehension expressed by learned State counsel that if granted regular bail

the petitioner may flee from justice and try to threaten and intimidate the prosecution witnesses is to be taken with all the seriousness it deserves. The trial against the petitioner is going, if at the end of it the petitioner is found to be innocent, he would be acquitted but at this stage no ground to grant him regular bail is made out.

The petition for grant regular bail is dismissed accordingly.

18.09.2017

Gaurav Sorot

**(H.S. MADAN)
JUDGE**

1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**