

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

**CRM-M No. 16108 of 2018
DATE OF DECISION :- July 31, 2018**

Neetu

...Petitioner

Versus

State of Haryana

...Respondent

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

Present:- Mr. Bikram Choudhary, Advocate for the petitioner.

This petition for regular bail has been filed by petitioner Neetu an accused in F.I.R. No. 163 dated 7.2.2018 for offences under Sections 363, 366, 376(2)(i) IPC registered with Police Station Central Faridabad, District Faridabad.

Briefly stated the facts of the case as per prosecution story are that on 7.2.2018 at about 1.30 P.M. daughter of complainant Sunita hereafter referred to the victim, aged 11 years was missing from rented accommodation at village Ajroni, Sector 20, Faridabad. Neetu son of Jitender, residing in the same village was also missing.

Complainant Sunita in the written complaint submitted by her to the police stated that Neetu had kidnapped her daughter with a bad intention, therefore, necessary action in the matter be taken.

Formal F.I.R. for offence under Section 363 IPC was recorded. The matter was investigated.

Accused was arrested in this case on 9.2.2018. He had moved an application for regular bail in the Court of Sessions which was assigned to

Additional Sessions Judge, Faridabad, and it was dismissed on merits vide order dated 28.2.2018. He had moved 2nd application for bail which too was dismissed by the said Court vide order dated 9.4.2018, as such he has approached this Court asking for similar relief, notice of which was given to the State.

I have heard learned counsel for the petitioner besides going through the record.

Learned counsel for the petitioner has stated that statement of prosecutrix has since been recorded in which she has not supported the case of the prosecution. He has placed on file copy of that statement. He further contended that in statement under Section 164 Cr.P.C. she had given a clean chit to the accused. According to him, since the star witness of the prosecution has not supported the case, the petitioner is entitled to be released on bail as the conclusion of trial is likely to be take considerable time.

On the other hand, learned State counsel has contended that prosecutrix is a minor. In her statement she has stated that accused did wrong act with her though thereafter she said that he did not do any wrong act with her. Then there is a report by the Child Welfare Committee (for short CWC) finding that accused had committed the offence.

After hearing the rival contentions, I find admittedly the prosecutrix is a minor. Consent of minor is immaterial in such type of offences. After registration of the F.I.R. when the case was investigated, police found sufficient evidence to send up the accused to face trial for offence under Sections 363, 366, 376(2)(i) IPC. The trial is going on. The guilt of the petitioner shall be determined during the trial. This Court is not to appreciate and analyze the statements of witnesses including that of prosecutrix recorded during the trial. It is the job of the trial Court to do so. This Court is not to hold a mini trial so as to determine the guilt of the accused. The Court of Additional Sessions Judge while dismissing the

application for regular bail of the petitioner has observed that as per MLR, the hymen of prosecutrix was found torn. As per statement of prosecutrix recorded by CWC available on main file she had spent her time in town park with the applicant-accused and she has stated that he had kissed her and made her sit in his lap. There are other material witnesses including the complainant in this case and only on conclusion of trial it can be found out that whether prosecution has been able to prove its charge against the accused beyond a shadow of reasonable doubt or not.

The trial against the petitioner is going on, which is likely to be concluded in near future. I find that apprehension expressed by the State counsel that if granted bail there are reasonable chances of petitioner absconding and even tempering with the prosecution evidence cannot be brushed aside lightly.

There is no merit in the petition, therefore, the same stands dismissed.

(H.S. MADAAN)
JUDGE

July 31, 2018
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No