

In the High Court of Punjab and Haryana at Chandigarh

Crl. Misc. No. M-1725 of 2018

Date of Decision: 19.2.2018

Lalit

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Munish Behl, Advocate
for the petitioner.

Ms. Mahima Yashpal, AAG, Haryana
assisted by ASI Dalawar Singh.

Mr. Chirag Kundu, Advocate
for the complainant.

ANITA CHAUDHRY, J

The petitioner is seeking regular bail in FIR No. 795 dated 15.9.2017 registered at Police Station Sector-7, District Faridabad under Sections 363 IPC (Section 366-A IPAC and Section 4 of POCSO Act added later on) IPC.

Learned counsel for the petitioner contends that the petitioner is in custody since 26.10.2017 and he had got married to the prosecutrix and it was a case of run away marriage and protection was taken from the Court at Faridabad and the statement of the parties had been recorded. Counsel refers to Annexures P-3 to P-8. Counsel further contends that as per Aadhar card the girl was major.

The case had been adjourned on the last date so that the prosecutrix could be examined but an application had been moved before the Magistrate for getting the statement of the girl recorded again under Section 164 Cr.P.C. when the trial was on before the Additional Sessions Judge. The prosecution has moved an application now seeking further investigation on the ground that the victim had moved an application and new facts had come to light. Counsel further submits that the application had been moved just to prolong the trial.

The counsel appearing for the complainant states that the girl was under the influence of the petitioner and the girl was minor and she had made a statement on 15.02.2018 and there was a threat given to her which she had disclosed to the Magistrate. Copy of the statement was placed on record.

The police after the completion of investigation had filed the challan and the trial had begun. On the last date, there was an objection that the prosecutrix had still not been examined and the bail plea could not even be considered. The prosecution was directed to ensure the presence of the victim before the trial Court as the petitioner's side had claimed that it was a case of run away marriage and protection had been taken from the Court. The victim approached the Magistrate and got another statement recorded under Section 164 Cr.P.C. without informing the trial Court.

Petitioner is in custody since 26.10.2017. The victim and the accused had earlier moved the Sessions Judge at Faridabad for protection. They had also produced the marriage certificate, marriage photographs, copy of the PAN card and age proof.

Without commenting anything on the merits of the case and considering the fact that the trial will take time to conclude, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing local surety and adequate bonds to the satisfaction of the trial Court/Duty Magistrate with the condition that he will not tamper with the evidence.

(ANITA CHAUDHRY)
JUDGE

February 19, 2018

ps-I

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No