

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

CRM-M-17445-2018

Date of decision:- 7.8.2018

Deepak

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr. Kamal Chaudhary, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana

H.S. MADAAN, J.

This petition has been filed for the grant of regular bail to the petitioner – Deepak, an accused in FIR No.757 dated 15.12.2017, under Sections 363, 366-A IPC and Section 4 of the POCSO Act, registered at Police Station SGM Nagar, Faridabad.

FIR in this case was lodged by complainant Shamsad son of Liyakat, resident of House No.3B-16 NIT, Faridabad, who in the written complaint submitted at Police Post, Town No.3, Faridabad on 15.12.2017 stated that her younger sister, namely, Nazrana, aged 19 ½ years had left home on 15.12.2017 at about 6:30 p.m. without informing anybody; that they searched for her but she could not be traced; that they had a firm

suspicion that Deepak alias Bithal has enticed away his sister Nazrana, who may be traced out and legal action be taken against Deepak alias Bithal. On the basis of said complaint, formal FIR under Section 346 IPC was recorded. The matter was investigated. Accused was arrested in this case on 2.1.2018. He had moved an application for regular bail in Court of Sessions at Faridabad but was unsuccessful as the same was dismissed vide order dated 10.4.2018 passed by learned Additional Sessions Judge, Faridabad, as such, he has approached this Court for grant of similar relief.

Notice of the petition was given to the State and State counsel has put in appearance.

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

Learned counsel for the petitioner has contended that even as mentioned in the FIR, the prosecutrix was a major aged about 19 ½ years and this age is so reflected in the Aadhar card; that she had gone with the petitioner of her own and both of them solemnized marriage on 15.12.2017 regarding which they had sought protection from Sessions Judge, Faridabad; that when statement of the prosecutrix was recorded on 2.1.2018 by the police in presence of her legal aid prosecution counsel, she had stated that she had married the petitioner accused of her own and she wanted to go along with him; that in her statement under Section 164 Cr.P.C. got recorded by JMIC, Faridabad on 20.12.2017, she had deposed on those lines. Therefore, the petitioner be granted concession of regular bail.

Whereas, this request is being opposed by the State counsel submitting that the prosecutrix was minor at the time of incident; that she had been kidnapped with an intention to get married, therefore, no ground is made out to grant regular bail to the petitioner.

After the rival contentions of learned counsel for the parties, I find that the complainant while reporting the matter to the police himself had given the age of prosecutrix as 19 ½ years. In her statement made to the police and before Magistrate, she had admitted having married the petitioner with her own showing willingness to go with the petitioner. It comes out to be a case of run away couple getting married against wishes of family member of the girl. They had sought protection from the Court of Sessions at Faridabad also. The conclusion of trial is likely to take some time. The guilt of the accused shall be determined during the trial. Therefore, I am of the view that the petitioner deserves to be granted concession of bail.

Accordingly, the petition is allowed. The petitioner be admitted to bail during the pendency of the trial, subject to his furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Faridabad, subject to the following conditions:

- (i) he shall appear in the Court on each and every date of hearing;
- (ii) he shall not give any threat or intimidation to the prosecution witnesses; and
- (iii) he shall not leave India without prior permission of the Court and shall surrender his passport, if he has got

one, otherwise to furnish affidavit in that regard.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

In case the petitioner violates any term and condition on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail.

7.8.2018

Brij

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No