

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

CRM-M-2147-2018

Date of decision:-30.8.2018

Balwinder Ram @ Binda

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.J.S. Dhaliwal, Advocate
for the petitioner.

Mr.Dhruv Dayal, Sr.DAG, Punjab.

H.S. MADAAN, J.

This petition for regular bail has been filed by petitioner – Balwinder Ram @ Binda – an accused in FIR No.83 dated 20.10.2014, under Sections 363, 366-A, 376, 498-A, 494 IPC and Section 5 & 6 of the Protection of Children from sexual Offences Act, 2012 (hereinafter referred to as the Act), registered with Police Station City, Mansa, District Mansa.

Briefly stated, the prosecution story is that the criminal machinery in this case was set into motion by the complainant (name not being mentioned to conceal her identity and referred to as '*the prosecutrix*') daughter of Kartar Ram, resident of Sahnewali, P.S. Jhunir,

presently resident of Krishna Colony, Mohan Halwai, Khokhar Road, Mansa, aged about 17 years, who in her statement made to the police stated that about two years prior to her making statement to the police, Balwinder Ram @ Binda son of Raja Ram, resident of Sahnewali, PS Jhunir had enticed her away on the allurement of marrying her, and he had sexual intercourse with her forcibly without her consent, subsequently, the prosecutrix came to know that Balwinder Ram @ Binda was married earlier; a compromise was entered into between the parties that Balwinder Ram @ Binda would divorce his first wife and then contract a marriage with the complainant; Balwinder Ram @ Binda established physical relations with the prosecutrix giving her promise of marriage; the prosecutrix conceived, however, later on Balwinder Ram @ Binda told her that he just wanted to use her for enjoyment and he would not marry her. Therefore, feeling aggrieved, the prosecutrix lodged a report with the police.

Accused had moved an application for pre-arrest bail before the Court of Sessions, which was dismissed, as such, he had moved this Court and was granted pre-arrest bail, in this case where initially offences under Sections 363, 366-A were there and Section 376 IPC had been deleted and offences under Sections 498-A and 494 IPC were added.

Ultimately challan was presented by the police under Sections 498-A and 494 IPC. Thereafter, the prosecution moved an application under Section 190 Cr.P.C. before learned Magistrate for taking cognizance under Sections 376, 363, 366-A, 509, 313, 314, 315 IPC and learned Magistrate held that prima facie a case was made out

under Sections 363, 366-A, 376 IPC and the case was committed to the Court of Sessions for trial. The petitioner was arrested in this case on 17.7.2017. He had filed an application for regular bail in the Court of Sessions, which was declined by learned Sessions Judge, Mansa vide order dated 10.1.2018, as such, he has approached this Court with the same request.

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

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

Learned counsel for the petitioner has argued that the complainant is more than 25 years of age and she was already married with one Malkiat Ram, resident of Tholewal, District Barmala, Rajasthan that no offence under Sections 363, 366-A, 376, 498-A, 494 IPC and Sections 5 & 6 of the Act is made out but the complainant using political influence has lodged the present FIR. Therefore, the petitioner be granted concession of regular bail.

The request is being opposed by the State counsel vehemently.

After hearing the learned counsel for the parties, I find that keeping in view the seriousness and gravity of allegations against the petitioner, no ground for grant of regular bail to him is made out. The trial against the petitioner is going on. As submitted by the State counsel, the examination-in-chief of the prosecutrix has been recorded during the trial and her cross-examination is yet to be conducted. Other material

witnesses are also to be examined. The apprehension expressed by the State counsel that if petitioner is granted bail, there is every likelihood to his absconding and even tampering with the prosecution evidence cannot be brushed aside lightly. The trial against the petitioner is likely to be concluded in near future. If on conclusion of trial it is found that accused is innocent, he would be acquitted but at this stage no case for grant of regular bail to him is made out.

Therefore, finding no merits in the petition, the same stands dismissed.

30.8.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No