

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

CRM-M-21574-2018

Date of decision:-7.9.2018

Sunil Kumar @ Lilli

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.Robin Singh Hooda, Advocate  
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

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**H.S. MADAAN, J.**

This petition for regular bail has been filed by petitioner – Sunil Kumar @ Lilli – an accused in FIR No.499 dated 21.12.2017, under Sections 363/366-A/376 IPC and Section 4 of POCSO Act, registered with Police Station Kundli, Sonipat.

Briefly stated, the facts of the case as per prosecution story are that the prosecutrix having date of birth 31.1.2001 aged around 17 years daughter of Rajbir, resident of Bapsara, who had failed in

matriculation examination, as such, used to remain at home, had eloped with Sunil Kumar @ Lilli son of Ballu Ram of that very village, allured by promise of marriage. Despite a search operation being launched by her father Rajbir and other family members, she could not be traced. On an information being given at Police Station Kundli by Rajbir – complainant, formal FIR was registered. During the course of investigation, the prosecutrix was recovered. She was got medico legally examined and her statement under Section 164 Cr.P.C. was recorded. Accused was arrested in this case. He had filed an application for regular bail in the Court of Sessions, which was declined by learned Additional Sessions Judge/Special Judge, Sonipat vide order dated 9.5.2018, as such, he has approached this Court with 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.

Though it seems to be a case of run away couple and the prosecutrix while getting her statement recorded under Section 164 Cr.P.C. had stated that she is aged about 17 years and she had got married with Sunil Kumar @ Lilli on 10.12.2017 and had gone with him to Goa on that date and while getting her statement recorded in the Court during trial, she had also stated so, but then the crucial thing is 'can a minor be a consenting party', under such circumstances, the answer has to be in negative. As it comes out from the record, the prosecutrix was aged less than 18 years at the time of incident. She could not possibly be taken out

from the custody of her parents, who are her natural guardians, without their consent. The petitioner having done so indeed committed wrongful acts coming within the mischief of criminal offences. The trial against him is going on, which is likely to be concluded in near future. His guilt shall be determined during the trial. The possibility of the petitioner absconding and trying to tamper with the prosecution evidence, if granted bail is certainly there. As such, no ground is made out to grant concession of regular bail to the petitioner.

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

7.9.2018  
Brij

**(H.S.MADAAN)**  
**JUDGE**

**Whether reasoned/speaking : Yes/No**

**Whether reportable : Yes/No**