

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

CRM-M-22408-2018(O&M)

Date of decision:-5.9.2018

Bharat Bhushan, Juvenile through father Jagdish Lal

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.Suneel Ranga, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J.

This petition for regular bail has been filed by petitioner – Bharat Bhushan – a juvenile through his father and natural guardian Jagdish Lal, who has been booked in FIR No.1318 dated 24.12.2017, under Sections 363, 366-A IPC, registered at Police Station Panipat City, District Panipat.

Briefly stated, the facts of the case as per prosecution story are that on 24.12.2017 at about 6:00 p.m., the prosecutrix aged about 13

years, a student of 8th class at Haryana Royal School, Tehsil Camp, Panipat left her home located at Jyoti Colony, Panipat without informing any one. Her parents searched for her but she could not be located, as such her father Numan Alam lodged a report with the police at Police Post, Sector-6, Panipat expressing a doubt that Bharat Bhushan had induced her daughter to elope with him.

After registration of the formal FIR, the matter was investigated. On 31.12.2017 the prosecutrix was recovered. She was got medico legally examined. Her statement under Section 164 Cr.P.C. was got recorded. Thereafter, Section 4 of the Protection of Children from Sexual Offences Act, 2012 was added. Accused was also arrested on that very day. After completion of investigation, challan against the accused was prepared and filed in the Court and now the matter is pending trial. The petitioner had filed an application for regular bail in the Court of Sessions, which was declined by learned Additional Sessions Judge/Special Judge, Panipat vide order dated 2.5.2018, 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.

Learned counsel for the petitioner has submitted that the petitioner is a juvenile; the prosecutrix was a consenting party. He has further contended that the petitioner is entitled to get bail since in terms of Section of 3 of Juvenile Justice (Care and Protection of Children) Act,

2015, there is presumption of innocence in favour of the petitioner and as per Section 12(1) of the Juvenile Justice (Care and Protection of Children) Act, 2000, a juvenile is ordinarily entitled to be released on bail except for the reasons mentioned in the proviso that where (i) there appears reasonable ground for believing that the release is likely to bring that person into association with any known criminal or (ii) expose the said person to moral or physical or psychological danger or (iii) his release would be defeat the ends of justice. Recording of reasons for denying the bail is required.

Learned counsel for the petitioner has pressed into service *Sandeep @ Sipi Versus State of Punjab, 2016(3) RCR(Criminal)776*, *Vijay Kumar @ Chhotu (minor)through his mother Versus State of Punjab, 2016(5) RCR(Criminal) 897*, and *Gaurav Versus State of Haryana, 2016(5) RCR(Criminal)781* in support of his contention that the petitioner deserves to be released on bail.

Whereas, learned State counsel has submitted that the petitioner has committed a very heinous crime and his petition for regular bail was rightly declined by learned Additional Sessions Judge/Special Judge, Panipat since if released on bail, there is reasonable apprehension of his trying to tamper with the evidence besides influencing and pressurizing the prosecution witnesses and of absconding even.

After hearing the rival contentions, I find that the prosecutrix in her statement recorded under Section 164 Cr.P.C. has categorically stated that she was allured by the accused in eloping with him and accused had committed sexual intercourse with her against her wishes. Her age as

per the prosecution story was about 12 years at the time of incident. Such type of a person with sick mentality, kidnapping a minor girl and then subjecting her to sexual intercourse repeatedly, if released on bail, his release would not only defeat the ends of justice but there is likelihood of his coming in association with known criminals exposing him to moral, physical or psychological influence, which is undesirable. Therefore, no ground for grant of regular bail to the petitioner is made out.

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

5.9.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No