

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

CRM-M-25151-2018

Date of decision:-5.10.2018

Mohit

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.Avtar Singh Bhatti, Advocate  
for the petitioner.

Mr.Dhruv Dayal, Sr.DAG, Punjab.

Mr.Sandeep Arora, Advocate  
for the complainant.

\*\*\*\*

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

This petition for regular bail has been filed by petitioner –  
Mohit – an accused in FIR No.243 dated 7.11.2014, under Sections 363,  
366-A, 120-B IPC(Offence under Sections 376, 380, 323, 342 IPC and  
Section 4 of POCSO Act added later on), registered at Police Station  
Salem Tabri, Ludhiana.

Briefly stated, facts of the case as per prosecution story are that on 7.11.2014, the prosecutrix (name withheld to protect her identity in view of Section 228-A IPC and as per the directions given by the Hon'ble Apex Court in case titled State of Karnataka Vs. Puttaraja, 2004(1) RCR(Cri.) Supreme Court, 113 (SC) and referred to as *the prosecutrix*) having date of birth 16.12.1996, a student of BA-Ist at Government College for Women, Ludhiana went missing from home. She had taken away various articles including jewellery items, mobile phone and cash amount along with her. As a matter of fact, she had been given allurement of marriage by accused Mohit.

On the basis of statement of complainant Krishan Lal, father of the prosecutrix, formal FIR was registered. Investigation in the case started, during the course of which, the prosecutrix was recovered. Her statement under Section 164 Cr.P.C. was got recorded. Accused was also arrested in this case on 2.2.2018. After completion of investigation and other formalities, challan was prepared and filed in the Court and the accused is facing trial. He had filed an application for regular bail in the Court of Sessions, which was declined by learned Additional Sessions Judge, Ludhiana vide order dated 23.5.2018, 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. The complainant has also appeared through counsel.

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

Learned counsel for the petitioner has argued that it is a case of run away couple; that the prosecutrix had gone with the petitioner/accused of her own free will and had then performed marriage with him on 12.11.2014; that the petitioner had not kidnapped the prosecutrix and later on the prosecutrix under influence of her family had made a wrong statement against the petitioner, therefore concession of regular bail be granted to the petitioner.

Whereas, this request is being opposed by the learned State counsel as well as learned counsel for the complainant vehemently.

Admittedly, the prosecutrix having date of birth 16.12.1996 was aged less than 18 years on 7.11.2014, the date of the alleged incident. Therefore, even if it is taken that she had given consent for marriage with the petitioner, which took place on 12.11.2014 or had filed any protection petition in the Court making statement etc. therein, her consent is of no value being of a minor girl. The fact remains that the petitioner had taken away the minor girl from the custody of her parents giving allurements of marriage, therefore, essential ingredients of the offence get completed. Though in her statement under Section 164 Cr.P.C., the prosecutrix might have given a different version but while being examined in the Court during the trial as PW3, she has toed the line of prosecution and supported the prosecution story as regards her going along with the petitioner under his threat and use of force and taking along gold ornaments cash etc., which had been taken from her by Mohit and his mother, then she being threatened to contract marriage with the petitioner and accused threatening her that if she tried to run away, she would be killed and then

petitioner committing rape upon her after giving beatings, and repeated it several times. She stated that statement made by her before Judicial Magistrate Ist Class under Section 164 Cr.P.C. was under pressure of accused and not made voluntarily. Even otherwise, it is stated that after registration of the case, the petitioner was on run and had been declared a proclaimed offender earlier, though subsequently he had surrendered and was taken into custody. Along with the gravity and seriousness of allegations against the petitioner, there is apprehension of his trying to tamper with the prosecution evidence and even to abscond, if granted bail. The trial against the petitioner is likely to be concluded in near future.

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

5.10.2018  
Brij

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

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

**Whether reportable : Yes/No**