

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

CRM-M-27479-2018

Date of decision:-25.9.2018

Sonu

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.Deepak Vashishth, Advocate
for the petitioner.

Ms.Aditi Girdhar, AAG, Haryana.

H.S. MADAAN, J.

This petition for regular bail has been filed by petitioner –
Sonu – an accused in FIR No.731 dated 5.8.2017, under Sections 363,
366-A, 420, 468, 471 IPC and Section 12 of POCSO Act, registered with
Police Station City, Jind, District Jind.

Briefly stated, the facts of the case, as per the prosecution
story are that FIR in the case was lodged by the complainant Amarnath
son of Rulia Ram, resident of Budha Baba Basti, Bhiwani Road, Jind,
who in the written complaint submitted by him to the SHO Police Station
City, Jind submitted that his grand-daughter (name not being mentioned to
conceal her identity and referred to as the prosecutrix) daughter of his son

Rajbir, resident of Haripura, District Kaithal, a student of B.Com Ist year, who had been residing with him at Budha Baba Basti for last many days had gone out of home on 4.8.2017 at about 6:00 p.m. in the evening for bringing milk, but she did not return home; that efforts were made to locate her but in vain. *Inter alia* in the complaint, the complainant contended that Sonu resident of Khem Nagar, Jind used to harass her and such grand-daughter and he expressed a doubt that her grand-daughter had been taken away by Sonu.

After registration of the FIR, the matter was investigated. On 26.10.2017, the abducted girl was recovered and accused Sonu was arrested in this case. The statement of the girl in question was got recorded by Judicial Magistrate Ist Class, Jind under Section 164 Cr.P.C. She was got medico legally examined from General Hospital, Jind on that very day. She was also produced before Child Welfare Committee, Jind and her statement was recorded. The petitioner/accused had filed an application for regular bail in the Court of Sessions, which was declined by Additional Sessions Judge, Jind vide order dated 4.6.2018, 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 argued that it is a case of run away couple and in her statement under Section 164 Cr.P.C., the prosecutrix had stated so in her statement, though she has changed her

stance in the Court, therefore, the petitioner, who is an innocent has been granted concession of regular bail.

Whereas, the request is being opposed by the State counsel submitting that the date of birth of the prosecutrix is 5.12.1999 and on the date of incident i.e. 4.8.2017, she was less than 18 years of age, as such, her consent is immaterial; that the petitioner had indulged in forgery of document with regard to date of birth of the prosecutrix, therefore he is not entitled to regular bail.

After hearing the rival contentions, I find that though the petitioner has placed on record photostat copies of photographs to show that the prosecutrix had married him in a temple and further Shri Balaji Jyotish Kendra, Mata Mansa Devi Market, Sector-4, Panchkula had issued a certificate showing date of birth of prosecutrix as 25.4.1999 and after marriage the spouses had sought protection from this Court, but then the fact remains that the prosecutrix happened to be a minor having date of birth 5.12.1999, though the accused is alleged to have changed her date of birth as 25.4.1999 by committing forgery to show that she was aged more than 18 years at the time of incident. The statement of the prosecutrix recorded in the Court as PW1 before Additional Sessions Judge, Jind on 4.5.2018 has been placed on record in which she has levelled specific allegations that Sonu enticed her away by giving her allurements of marriage, firstly taking her to Panipat, then to Panchkula; that Sonu had performed marriage with her on 30.8.2017 in Balaji Jyotish Kendra, Mata Mansa Market, Sector-4, Panchkula; that Sonu had prepared a false marriage documents after pressurising her; that he had also prepared a

false affidavit Ex.P1 regarding her date of birth and obtained her signatures after giving threatenings. She further stated that she does not want to marry with him; that accused also prepared a false marriage certificate; that after marriage Sonu had a rented house at Panipat; that after some time Sonu left her near bus stand, Jind asking her to go to her house.

Under the circumstances, accused by giving an allurements of marriage to a young minor girl and then kidnapping her indulging in preparing forged documents has committed a heinous crime and no leniency can be shown to him. His guilt shall be determined during the trial. The trial is going on, which is likely to be concluded in near future. Such type of accused cannot be relied upon and there are every chances of his absconding, trying to tamper with the prosecution evidence, indulging in criminal activities again and trying to escape the justice delivery system, if granted bail.

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

25.9.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No