

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

CRM-M-27563-2018

Date of decision:- 24.9.2018

Jitender

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.Ram Bilas Gupta, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J. (Oral)

This petition has been filed for the grant of regular bail to the petitioner – Jitender, an accused in FIR No.182 dated 24.3.20018, under Sections 363, 366-A IPC and Section 4 of POCSO Act, registered at Police Station Sector 55, Faridabad.

Briefly stated, the facts of the case, as per the prosecution story, are that the FIR in question was registered on the basis of statement of complainant Chander Shekhar son of Madhel Singh, resident of village Kheri Gujran, Parivan near Prajapati Public School, Faridabad, which he got recorded with police of Police Station Sector 55, Faridabad on 24.3.2018 stating therein that his daughter (name not being mentioned to

conceal her identity and referred to as '*the prosecutrix*') aged about 16 years had been enticed away by Jitender son of Atma Ram, Prajapati living in their neighbourhood on the promise of getting married; that his said daughter had taken away Rs.10,000/- in cash besides some jewellery articles etc. from home.

FIR No.182 dated 24.3.20018, under Sections 363, 366-A IPC was accordingly registered. The investigation in the case started. As per the school certificate of the prosecutrix, her date of birth was found to be recorded as 15.7.2000. The prosecutrix was recovered on 6.4.2018. She was taken to a lady doctor for medical examination but she refused to get herself medically examined. On 7.4.2018, she was produced before Judicial Magistrate Ist Class, Faridabad for the purpose of getting her statement recorded under Section 164 Cr.P.C. Thereafter, her custody was handed over to her parents. On 4.4.2018 supplementary statement of the complainant Chander Shekhar was recorded in which the allegations of his daughter having taken cash amount and jewellery articles etc. were withdrawn. Accused was arrested on 7.4.2018. Section 4 of the POCSO Act was added. After completion of investigation, challan against the petitioner/accused was prepared and filed in the Court on 30.5.2018 and now the trial is going on. The petitioner/accused had moved an application for regular bail in Court of Sessions at Faridabad but was unsuccessful as the same was dismissed vide order dated 25.4.2018 passed by learned Additional Sessions Judge, Faridabad, as such, he has approached this Court for grant of similar relief.

Notice of the petition was given to the State and State counsel

has put in appearance.

I have heard learned counsel for the petitioner and learned State counsel besides going through the record.

Learned counsel for the petitioner has contended that it is a case of run away couple; the girl in question had gone with the boy i.e. petitioner Jitender of her own and Jitender had not kidnapped her much less by giving her allurements of marriage. Learned counsel has pointed out that in her statement under Section 164 Cr.P.C., the girl in question has stated that on 23.3.2018, she and Jitender got out from the house at around 10:00 a.m. and went to Hyderabad, where they stayed till 2nd April and thereafter, they returned to Faridabad; that her parents came to know about that and they reached there and they were handed over to the police. She stated that she did want to go to her parental home and want to live with Jitender; furthermore, she had refused to get herself medically examined by making statement on 6.4.2018 stating that she is aged 19 years and nothing wrong was done with her and she lived with Jitender of her own. Learned counsel for the petitioner has also pointed out that the complainant has furnished an affidavit to the effect that a wrong FIR was got recorded by him and he has no objection, if bail is granted to the present petitioner. Furthermore, the daughter in question of the complainant has also furnished an affidavit stating that her date of birth is 20.5.1999 and she is a major; that her father had got registered a wrong FIR against Jitender and she has no objection, if bail is granted to Jitender.

Further, counsel for the petitioner has taken me to migration certificate of the girl showing her date of birth to be 15.7.2000. He has

also submitted that when statement of the prosecutrix was recorded in the Court on 10.8.2017, she did not utter even a single word against the petitioner/accused. He has contended that the conclusion of the trial is likely to take some time, as such regular bail be granted tot he petitioner.

This request is being opposed by learned State counsel.

After hearing the rival contentions of learned counsel for the parties, I find that in light of the contentions put forward by learned counsel for the petitioner and considering that culpability of the petitioner shall be determined during the trial; furthermore that the complainant and the prosecutrix do not oppose the prayer for bail and that the trial is at initial stage and its conclusion is likely to take some time, the petition calls for acceptance.

Accordingly, the petition is allowed. The petitioner be admitted to bail during the pendency of the trial, subject to his furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Faridabad, subject to the following conditions:

- (i) he shall appear in the Court on each and every date of hearing;
- (ii) he shall not give any threat or intimidation to the prosecution witnesses; and
- (iii) he shall not leave India without prior permission of the Court and shall surrender his passport, if he has got one, otherwise to furnish affidavit in that regard.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and

interfere in the trial.

In case the petitioner violates any term and condition on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail.

24.9.2018

Brij

(H.S. MADAAN)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No