

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 31200 of 2018 (O&M)

Date of decision : 21.9.2018

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Dharminder

.....Petitioner

vs.

State of Punjab

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. R.V.S. Chugh, Advocate
for the petitioner.

Mr. Dhruv Dayal, Senior DAG, Punjab.

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H. S. Madaan, J.

This petition for regular bail has been filed by petitioner – Dharminder, being an accused in FIR No. 98 dated 24.5.2018, for offences under Sections 363, 366 IPC, registered at Police Station Sarabha Nagar, Ludhiana.

Briefly stated, facts of the case, as per the prosecution story are that criminal machinery in this case was set into motion by complainant Kuldeep Singh s/o late Ganga Ram, who got his statement recorded with the police on 24.5.2018, stating therein that his sister -prosecutrix (name withheld to conceal the identity), having date of birth 1.1.2000, who had been working as a sweeper in a kothi near their house for the last about one month. Dharminder Singh s/o Beduwasi Soria, a native of U.P. had been residing in a quarter near

their house. Such Dharminder Singh is aged about 19 years doing the work of paint, living with his mother and three sisters. Dharminder Singh is related to the complainant as son of his paternal uncle. Inter alia in the statement to the Police, the complainant stated that Dharminder used to harass her sister-prosecutrix, forcing her to marry him. On 23.5.2018, the prosecutrix returned home after doing the work in the Kothi telling her mother that she had been called again at 1.00 P.M. by her employer for doing household work. Then she left home and did not return thereafter. Her family started searching for her and came to know that accused was seen taking said sister of the complainant alongwith him. The quarter of Dharminder was found to be locked. According to the complainant, Dharminder had enticed away his such sister-prosecutrix on the pretext of marriage.

After registration of the FIR, investigation in the case started. On 26.5.2018, Dharminder alongwith the prosecutrix were apprehended . Custody of the prosecutrix was handed over to her mother and brother. The prosecutrix was got medically examined from Civil Hospital, Ludhiana. Statement under Section 164 Cr.P.C. of the prosecutrix was got recorded, in which she stated that accused is her cousin brother, being son of paternal uncle and on 23.5.2018, when she was going home after work, Dharminder met her on the away and asked her to accompany him. Thereafter, he started beating her. He threatened her that he would kill her brothers. Then took her to Ghantaghar in a tempo and thereafter boarded a train to Vaishno Mata. When they reached Katra, there they stayed in a hotel, where

Dharminder committed forcible sexual intercourse with her. On the next day they went to Vaishno Devi and Bhairo Nath Mandir. Dharminder accused performed marriage with her. In the morning of 26.5.2018, they returned to Ludhiana in train, when they were apprehended by the police.

On the basis of MLR and statement of the prosecutrix under Section 164 Cr.P.C., offence under Section 376 IPC was added.

After completion of investigation and other formalities, challan against the accused has been filed.

The accused had moved an application for grant of regular bail before the Court of Sessions, which was assigned to Additional Sessions Judge, Ludhiana, who vide order dated 13.7.2018, dismissed the same, as such he has knocked at the door of this Court, with a similar prayer, which is being opposed by the State counsel.

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

The allegations against the petitioner are very serious and grave, of kidnapping a minor girl by giving her allurements of marriage and thereafter subjecting her to rape. There could not be any question of the prosecutrix being a consenting party. She being a minor at the time of incident, her consent if any, is of no significance. Even otherwise, from the statement under Section 164 Cr.P.C. of the prosecutrix, it comes out that she was not a consenting party.

Challan against the accused has been filed. The trial against

him is likely to begin soon and concluded in near future. His culpability shall be determined during the trial. The facts and circumstances of the case do not warrant his release on bail. The apprehension expressed by the State counsel that if granted bail, there are reasonable chances of the petitioner absconding and even trying to tamper with the prosecution evidence, cannot be brushed aside lightly.

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

21.9.2018
chugh

(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No