

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

CRM-M-33329-2018

Date of decision:-9.10.2018

Gurdeep Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

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

Present: Mr.Onkar Rai, Advocate
for the petitioner.

Mr.Dhruv Dayal, Sr.DAG, Punjab.

H.S. MADAAN, J.

This petition for regular bail has been filed by petitioner – Gurdeep Singh – an accused in FIR No.75 dated 23.6.2018, under Sections 363, 366, 376 IPC and Sections 3, 4 of POCSO Act, 2012, registered at Police Station Rohon, SBS Nagar.

Briefly stated, the facts of the case as per prosecution story are that the FIR in question was lodged by complainant Sarup Lal son of Jai Ram, resident of village Behloor Kalan, aged about 45 years, who in

his statement got recorded with the police stated that he is a labourer by avocation having three children, two girls and a boy; that his daughter 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 28.12.2002 has been a student of 9th Class and on 10.6.2018, both his daughters had gone to Bhatti Complex Church at Rahon for prayer but then the prosecutrix did not come back; that younger sister of the complainant namely Santosh Kumari returned home and told the entire incident to her parents. In his statement, the complainant stated that he is of the firm view that Gurdeep Singh son of Ram Ludhayia, resident of village Makkewal Jabba, Police Station Kathgarh, District SBS Nagar had enticed and allured her daughter.

On the basis of that statement, formal FIR was registered. After completion of investigation, the matter was investigated. Accused was arrested in this case. The prosecutrix was recovered. She got her statement recorded with the police wherein she stated that she is aged about 16-17 years having date of birth as 28.2.2002 and has studied up to 9th class; that on 10.6.2018 she along with her sister Santosh Kumari had gone to church at Bhatti Complex, Rahon and before completion of prayer, she without telling her sister came out and went along with her lover Gurdeep Singh as they had planned earlier, thereafter they resided together at various places, during the course of which, they made physical relations, which was so done with her consent. After completion of

investigation and other formalities, challan was filed in the Court and trial against the accused is going on. The petitioner/accused had filed an application for regular bail in the Court of Sessions, which was declined by learned Additional Sessions Judge, SBS Nagar vide order dated 16.7.2018, 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 contended that the matter has been compromised between the parties, as such petitioner be granted concession of regular bail, since now family of the prosecutrix is ready to get the prosecutrix married with Gurdeep Singh – petitioner. Copy of panchayati compromise dated 9.7.2018 in that regard has been placed on file along with copy of affidavit of the complainant and his wife Raj Rani.

However, learned State counsel has stoutly opposed the request stating that the allegations against the petitioner are quite serious of kidnapping a minor girl and then having sexual intercourse with her.

After hearing the rival contentions, I find that the facts and circumstances of the case do not warrant release of the petitioner on bail at this stage since I find that there is reasonable apprehension of his absconding and trying to tamper with the prosecution evidence, if granted bail. The girl in question is a minor, as such, release of the petitioner/accused to contract marriage with the prosecutrix, who is

admittedly a minor in terms of copy of birth certificate showing date of birth as 28.12.2002 would amount to putting seal of approval on marriage, which is in violation of Section 5 of the Hindu Marriage Act, which provides that the minimum age for a girl to get married is 18 years and the prosecutrix is less than that age. Furthermore, keeping in view the gravity of the offence, the petitioner/accused does not deserve to be granted bail merely because now he is offering to marry the minor girl. The trial against the petitioner is likely to be concluded in near future.

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

9.10.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No