

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 33895 of 2018 (O&M)

Date of decision : 28.9.2018

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Lovepreet Singh @ Labha

.....Petitioner

vs.

State of Punjab

.....Respondent

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

Present: Mr. Vivek Goel, Advocate for the petitioner.

Ms. Samina Dhir, Deputy Advocate General,
Punjab.

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H. S. Madaan, J.

This petition for regular bail has been filed by petitioner – Lovepreet Singh @ Labha, being an accused in FIR No.189, dated 28.11.2017, for offences under Sections 363, 366-A IPC (Section 376 IPC and Section 3/4 of Protection of Children from Sexual Offences Act, 2012,(herein after to be referred to as 'the POCSO Act) added later on) registered at Police Station Nihar Singh Wala, District Moga.

Briefly stated, facts of the case as per the prosecution story are that the prosecutrix (name withheld to conceal the identity)

aged about 16 years, daughter of complainant Baljinder Singh s/o Gurnam Singh r/o Bus Stand Gajiana, Village Burj Hamira, Police Station Nihal Singh Wala, was enticed away by accused petitioner Lovepreet Singh @ Labha by giving her allurements of marriage. On the basis of statement made by the complainant to the police, formal FIR in the matter was recorded and the investigation in the case started.

On 8.12.2017, the accused was arrested in this case and prosecutrix was recovered from his custody. Offence under Section 376 IPC and Section 3/4 of the POCSO Act, were added. Statement of the prosecutrix was got recorded from SDJM, Nihal Singh Wala on 11.12.2017.

After completion of investigation and other formalities, challan against the accused was filed in the Court. Now the case is pending trial.

The accused had moved an application for regular bail to the Court of Sessions, which was assigned to Additional Sessions Judge, Moga, who vide order dated 19.5.2018 dismissed the application, as such the petitioner has approached this Court seeking the similar relief, by moving the petition in hand, which is being opposed by the State counsel.

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

As per the prosecution story, the victim happens to be a minor aged about 16 years. Though in her statement recorded during the trial, she has not supported the prosecution story, rather stated that she had asked the accused to take her along with him and if he did not

do so, then she would die. But then consent of the minor is no consent in the eyes of law. The fact remains that victim, a minor girl, had been taken out of the custody of her parents, without their consent. In that way, the accused has committed a grave and serious offence.

The trial is at the fag end, in as much as, the prosecution has already closed its evidence, though application under Section 311 Cr.P.C. filed by the Public Prosecutor is stated to have been allowed and examination-in-chief of three PWs is stated to have been recorded. In that way, the trial is likely to be concluded in near future. Culpability of the accused shall be determined during the trial.

Therefore, I do not see any reason to grant regular bail to the petitioner. The petition in that regard stands dismissed.

28.9.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No