

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 35325 of 2018 (O&M)

Date of decision : 1.10.2018

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Rafi

.....Petitioner

vs.

State of Punjab

.....Respondent

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

Present: Mr. Mohd. Yousaf, Advocate for the petitioner.

Mr. Rakeshinder Singh Sidhu, Assistant Advocate General,
Punjab.

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H. S. Madaan, J.

This petition for regular bail has been filed by petitioner – Rafi, an accused in FIR No.35, dated 3.5.2018, for offences under Sections 363, 366-A IPC and Sections 7 and 8 of Protection of Children from Sexual Offences Act, 2012, registered at Police Station Sandhaur, District Sangrur.

Briefly stated, facts of the case as per the prosecution story are that on 1.5.2018, at about 2.00 A.M., when Nasreen w/o Gulzar Khan – complainant r/o village Dadhewara, woke up for taking water, she saw that her daughter – prosecutrix (name withheld to conceal the identity) aged about 17 years, was not on her cot.

Nasreen woke up her husband – the complainant. They started searching for their said daughter and came to know that Rafi s/o Veera, r/o Mohalla Bagh Wala Near Satta Chowk, Malerkotla, had kidnapped their daughter by giving allurement 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. The accused was arrested in this case.

After completion of investigation and other formalities, challan against the accused was filed in the Court and charge has also been framed.

The accused had moved an application for regular bail to the Court of Sessions, which was dismissed by Sessions Judge, Sangrur, vide order dated 5.7.2018, as such the petitioner has approached this Court craving for grant of the similar relief, by moving the petition in hand, which request is being opposed by the State counsel.

I have heard learned counsel for the petitioner, learned State counsel, besides going through the record and I find that there is no merit in the present petition.

Accused Rafi is stated to be a married person having children. He had obviously kidnapped the prosecutrix, who happened to be a minor girl giving her allurement of marriage.

According to learned counsel for the petitioner, the prosecutrix was involved in a love affair with Rafi and wanted to marry him and Rafi has not committed any offence, as such he be granted bail.

Learned State counsel is opposing the request like anything.

As per School Leaving Certificate, the date of birth of the prosecutrix is 15.2.2001, that means at the time of incident, she was a minor. The consent of the minor is no consent in the eyes of law. The petitioner -accused had certainly taken the prosecutrix out of the custody of her family members, by giving her allurement of marriage, when he was already married having children. Thus there are grave and serious allegations against him, which do not warrant his release on bail. There is reasonable apprehension of accused trying to tamper with the prosecution evidence and absconding even, if released on bail.

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

1.10.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No