

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-38366 of 2018
Date of decision : October 12, 2018

Rajesh Kumar Yadav @ Raj @ Kalu

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Naveen Bawa, Advocate, for the petitioner
Ms Samina Dhir, DAG, Punjab for the State

Fateh Deep Singh, J. (Oral)

The allegations against petitioner Rajesh Kumar Yadav @ Raj @ Kalu in this regular bail application under Section 439 Cr.P.C. filed in this case bearing FIR No. 77 dated 9.4.2018, under Sections 363, 366-A IPC and Section 4 of POCSO Act, 2012 as brought to the notice of this Court by learned State counsel are that on 13.3.2018, Mohini Devi, a girl admitted to be aged 18 years, daughter of complainant Mewa Lal is alleged to have been enticed and taken away by the petitioner leading to the registration of the present case and was recovered on 16.4.2018 from the custody of the petitioner

leading to his arrest on 16.4.2018.

Mr. Naveen Bawa, learned counsel for the petitioner submits that the girl is a major 18 years of age and has been in a relationship with the petitioner and left with her own sweet will and no offence under Sections 363,366-A IPC is made out and further submits that offence under Section 4 of POCSO Act has since been deleted during the investigations and has prayed for grant of bail.

Ms. Samina Dhir, DAG, Punjab on behalf of respondent-State though accepts the fact that provisions of POCSO Act have since been deleted as the girl happens to be 18 years of age but has stoutly opposed the grant of bail on the ground of heinousness of crime and seriousness of allegations.

Going through the submissions of the two sides, apparently it appears to be a case of voluntarily going away from the home by a major girl and thus, the question of being kidnapped by the petitioner is a debatable issue. The petitioner has already undergone incarceration for a period of more than six months and the trial is not likely to be concluded in near future, no useful purpose will be served by retaining the petitioner in custody. Accordingly, he is ordered to be released on regular bail to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Ludhiana.

The present petition stands disposed off accordingly.

The observations made herein above shall not be binding on the trial court at the time of trial as these are purely for the disposal of the present bail application.

October 12, 2018
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?	Yes/No
Whether Reportable ?	Yes/No