

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-53975 of 2018 (O&M)
Date of decision : December 13, 2018

Sachin

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Rajesh Bansal, Advocate, for the petitioner

Mr. Gaurav Bansal, AAG, Haryana for the State with
ASI Ram Niwas, PS Model Town, Panipat

Fateh Deep Singh, J. (Oral)

The allegations against petitioner Sachin in this second regular bail application filed in case FIR No. 837 dated 27.8.2018 under Sections 363, 366-A, 120-B IPC and Section 4 of Prevention of Children from Sexual Offences Act, Police Station Model Town, Panipat (the first bearing CRM-M-40771-2018 having been withdrawn on 16.11.2018 due to addition of certain offences) have been levelled by father of the girl namely Jagdish Kumar wherein he has alleged that his daughter aged around 17½ years had eloped with the petitioner and consequent upon recovery of the girl and arrest of accused on 31.8.2018, the petitioner is behind the bars and girl has

made statement under Section 164 Cr.P.C., the same very day.

Mr. Rajesh Bansal, counsel for the petitioner inter-alia contends that it was a love affair between the girl on the verge of becoming major and the petitioner and has sought to place reliance on her statement under Section 164 Cr.P.C. placed on the record as Annexure P/4. It is contended that there is no cause for the petitioner to entice and take away the girl and has sought to debate over the applicability of Section 4 of the POCSO Act.

Mr. Gaurav Bansal, AAG, Haryana for the State assisted by ASI Ram Niwas, PS Model Town, Panipat has sought to oppose the grant of bail on the ground of heinousness of crime though readily has conceded at the bar the factual scenario so argued before this Court by the petitioner side.

Appreciating the submissions of the two sides, the petitioner is behind the bars since 31.8.2018. The statement of the girl before the Magistrate under Section 164 Cr.P.C. is suggestive of what has sought to be argued by the counsel for the petitioner as being case of love affair. Thus, a debatable issue arises over the very applicability of offences under Sections 363, 366-A, 120-B IPC and Section 4 of the POCSO Act. In the light of the stand of the prosecutrix made before the Court together with her age which is nearing majority and thus culpability, if any, shall be determined at the time of trial which is not likely to be concluded in near future, no purpose will be served by retaining the petitioner in jail. Accordingly, he is ordered to be released on regular bail to the satisfaction

of learned Chief Judicial Magistrate/Duty Magistrate, Panipat.

The present petition stands disposed off accordingly.

The observations made herein above shall have no bearing on the merits of the case as these are purely for the disposal of the present bail application.

December 13, 2018
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(Fateh Deep Singh)
Judge

<i>Whether speaking/reasoned ?</i>	<i>Yes/No</i>
<i>Whether Reportable ?</i>	<i>Yes/No</i>