

223.

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

CRM-M-23704-2019

Date of decision:28.05.2019

BINDER

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

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

Ms. Priyanka Sadar, AAG, Haryana.

HARI PAL VERMA, J.(Oral)

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.407 dated 30.06.2018 registered under Sections 363, 366 of IPC (Sections 366-A, 376(2)(n), 506, 342 of IPC and Section 6 of POCSO Act, 2012 added lateron) at Police Station Sampla, District Rohtak.

As per the FIR, the petitioner has taken away the daughter of the complainant by alluring her. The petitioner is brother of sister-in-law of the victim.

Counsel for the petitioner states that the petitioner is in custody since 23.09.2018. He has argued that the victim has recorded two different statements under Section 164 Cr.P.C. The first statement under Section 164 Cr.P.C. was recorded on 21.07.2018 wherein the victim has stated that she

24.07.2018, she has shown her inclination to go with the parents. In either of the statements, the victim has not made any allegation against the petitioner that he ever committed sexual assault. The FIR was registered on 30.06.2018. The charges have been framed, but no witness has been examined so far. The trial in the case will take sufficient long time.

Learned State counsel does not dispute the custody and the statements so made by the victim under Section 164 Cr.P.C. However, she states that the age of the victim is about 16 ½ years and she has been enticed away by the petitioner. Even if the victim has stated that she has gone with the petitioner at her own, it is of no relevance as she is minor. Thus the petitioner is not entitled for concession of bail.

I have heard learned counsel for the parties.

The medical in the case was conducted on 21.07.2018 i.e. after more than 22 days of the alleged incident. Therefore, the medical report is a debatable issue.

Be that as it may, petitioner is in custody since 23.09.2018 and there being no conclusive medical evidence against the petitioner, without making any observations on the merits of the case, this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial court shall decide the case on the basis of available material.

(HARI PAL VERMA)
JUDGE

28.05.2019
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Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No