

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

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**CRR-927-2020 (O&M)
Decided on : 09.06.2020**

Manan (Minor)

... Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. R.S. Rai, Senior Advocate with
Mr. Gautam Dutt, Advocate for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

(The aforesaid presence is being recorded through video
conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral)

In the present criminal revision petition the petitioner challenges the order dated 27.03.2020 passed by the Judicial Magistrate 1st Class, Yamuna Nagar, whereby his bail application in case FIR No.307 dated 26.02.2020 under Section 364-A and 384 IPC registered at Police Station City Jagadhri has been rejected. The said order has further been upheld by the Additional Sessions Judge on 30.05.2020.

The reasoning given by the Judicial Magistrate 1st Class and Additional Sessions Judge is that the applicant is alleged to have committed offences punishable under Sections 364-A and 384 IPC, which deals with kidnapping for ransom and extortion respectively and, therefore, if released on bail, the applicant-juvenile may face moral or physical danger and may commit such like more offences in future. The victim having been recovered at the instance of the petitioner, which stands also corroborated with the statement recorded of the victim under Section 164 Cr.P.C. that the police

came along with the applicant on the next date of kidnapping.

It has been brought to the notice of this Court by the Senior Counsel that the FIR was lodged by the father of the girl aged 17 ½ old, who had gone from home in her car to a fast food establishment and, thereafter, had gone missing on 26.02.2020 at 8:00 PM. Her vehicle had been found parked near City Park in Sector-18. On 27.02.2020, the petitioner was arrested during the investigation of the case. Another person namely Roop Chand @ Raman has also been arrested. The statement of the girl as such which was recorded by the police on 27.02.2020, under Section 164 Cr.P.C. reads as under:-

“Statement of Prakriti, age 17 yrs. D/o Prashant Garg, R/o Jagadhri in case bearing FIR No.307 Dt. 26.02.2020, U/s 364A & 384 IPC, PS City Jagadhri, U/s 164 Cr.P.C. On SA

Q. What do you want to say?

Ans. On 26.2.2020, I had gone to the side of Model Town for getting Burger. It was about 8:30. When I reached Sector 18 then one vehicle was standing in between the road. Despite my giving horns, the car driver did not remove his car aside. Thereafter, when I came out of my car after getting down and asked the said car driver that why you are not taking your car aside. Then one boy from that car caught hold of my hand and made me sit in the car and gagged my mouth with a tape. After making me to sit in the car, that boy got out of the car and the other boy who was driving, remained in the car. Then said boy started driving. I requested that let me get out of the car but he did not agree. I could not open the door of the vehicle because it was Child-Locked. Thereafter, as phone was lying in the room, I tried to contact my family but phone could not be connected. From the same phone, I made a

phone call to my friend “Manan”. Next day, Police came with my friend Manan and rescued me from there.

Q. Do you want to say something more?

Ans. No, please.”

A perusal of the said statement would go on to show that two boys as such were mentioned who had made her sit in the car and one had taken her away, but she has not mentioned that either of them was the petitioner in the car. She had herself rung up the petitioner-Manan and the police also came with the petitioner and rescued her.

The petitioner is stated to be in the Child Reformatory Home since 28.02.2020 and as per best evidence which was of the girl herself, it is not that she has stated that he was one of the person who was responsible for her kidnapping. In such circumstances, the benefit of bail is necessary is go to the petitioner-juvenile, specially keeping in view his tender age also, as admittedly he is less than 18 years old and investigation is already complete.

Section 12 (1) of the Juvenile Justice Act, 2015 has been held by various judgments of this Court to be not providing for the gravity of the offence which can be pressed into service for denying the concession of bail to a juvenile. Neither of three situations under the section are made out and there was no relevant material available on the basis of which the Courts have to come to the conclusion that the release of the petitioner would

(i) bring him into association with any known criminals;

(ii) expose him to moral or psychological danger or

(iii) the release would defeat the ends of justice.

Accordingly, present revision petition is allowed. Order of the Courts below are set aside not being sustainable in the eyes of law. The petitioner-jvenile is ordered to be released on bail, on furnishing of bail bonds/sureties by his natural guardian or near relative to the satisfaction of the Principal Magistrate, Juvenile Magistrate, Yamuna Nagar.

June 09, 2020
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No