

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-20391-2020 (O&M)
Date of Decision:-7.8.2020

Israil Ali

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Rajvinder Singh Bains, Advocate for the petitioner.

Mr. J.S. Ghuman, DAG, Punjab.

*(the aforesaid presence is being recorded through video conferencing
since the proceedings are being conducted in Virtual Court)*

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.373 dated 12.11.2018 at Police Station Sahnewal, Ludhiana under Sections 363, 366-A and 376 of Indian Penal Code and Section 4 of POCSO Act.
2. The allegations, in nutshell, are to the effect that the petitioner had enticed away complainant's daughter, who as per FIR was aged about 15 years. It is further the case of prosecution that the victim was recovered after about 20 days from the day she went missing. It is further the case of prosecution that upon recovery of the victim when her statement was recorded in terms of

Section 164 Cr.P.C., she stated that she had been taken to Nepal by the petitioner.

3. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that the falsity of the case would be evident from the fact that while in statement recorded under Section 164 Cr.P.C. the victim stated that she had been taken to Nepal but subsequently the prosecution has changed its stand and it is now being alleged that the victim was kept in Village Dhandari Kalan, District Ludhiana by the petitioner.
4. The learned counsel for the petitioner has further submitted that the prosecutrix, in any case, is apparently a major as would be evident from the opinion of the doctor pursuant to her radiological examination (Annexure P-2), wherein her age has been opined to be between 17-19 years. It has further been submitted that, in any case, the benefit regarding margin of error has to be given to the accused and, as such, it cannot be said that the victim was a minor. It has further been submitted that the petitioner, in any case, has been behind bars since the last about 1 year and 8 months and, as such, deserves to be released on bail at this stage since the trial has virtually come to a standstill on account of spread of pandemic.
5. Opposing the petition, the learned State counsel has submitted that since the victim was a minor when she was enticed away by the petitioner and she has categorically stated that the petitioner had established physical relations with her, no case for grant of bail is made out. It has, however, been stated that the petitioner has indeed been behind bars since the last about 1 year and 8 months and that the petitioner is not involved in any other case.

6. Having regard to the aforesaid facts and circumstances especially the fact that the petitioner, who himself is of young age, has suffered incarceration of 1 year and 8 months and is not stated to be a previous convict, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and it is ordered that the petitioner be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

7.8.2020

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No