

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

CRM-M-34344-2020 (O&M)
Date of decision : 16.12.2020.

Manga Singh @ Mangat SinghPetitioner

Vs.

State of PunjabRespondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Vinod Bhardwaj, Advocate, for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

ALKA SARIN, J. (ORAL)

Heard through video conferencing.

This is a petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in FIR No.190 dated 12.07.2020 under Sections 363, 366-A of the Indian Penal Code, 1860 ('IPC' for short) registered at Police Station City Sunam, District Sangrur.

The allegations in the FIR are that the complainant Gurjant Singh has three daughters. The victim in the present case is stated to be 14 years of age and is studying in 9th class. It is further alleged that on 05.07.2020, while all the family members after dinner were sleeping in the court-yard and the daughters were sleeping in their rooms, then at night two of his daughters came to the court-yard for using the wash-room. From there his younger daughter went into the room after using the wash-room whereas the elder daughter (victim-herein) did not return to the room and when his younger daughter came outside the room and saw that her sister was missing then she woke up her parents. On searching, the victim was not found in the nearby places. Thereafter, it is

alleged that the complainant came to know from his sister Charanjit Kaur that his daughter had been kidnapped by the petitioner on the pretext of marrying her. On the said basis the FIR was lodged.

Learned counsel for the petitioner would contend that in the statement suffered by the victim under Section 164 CrPC, she has clearly stated that there was no sexual intercourse between the petitioner and the victim and that there was a discussion in her house regarding her marriage along with marriage of her elder sister and, therefore, she contacted the petitioner and informed him that she wanted to study whereas her parents want to perform her marriage. Therefore, with the consent of the victim, petitioner is stated have taken her from her house from where they wandered around religious places for four-five days and thereafter the petitioner had persuaded the victim to return and persuade her parents to allow her to study further.

Learned State counsel has stated that the consent of the victim would not be of any consequence inasmuch as she is about 14 years of age. Learned State counsel is, however, not in a position to deny the fact that the victim in her statement under Section 164 CrPC has specifically stated that due some talk in her house regarding her marriage she had run away with the petitioner and they had wandered around for four five days at religious places and that there was no sexual act committed upon her by the petitioner. Learned State counsel, on instructions from ASI Kashmir Singh, has stated that the victim has refused to undergo a medical examination.

I have heard learned counsel for the parties.

The petitioner in the present case has been in custody since 16.07.2020. The victim herself in her statement under Section 164 CrPC has clearly stated that they wandered around religious places for about four-five days and that she had left the house on her own with the petitioner. She has further specifically stated that no sexual act was committed upon her by the petitioner.

This Court is mindful of the fact that the victim in the present case is about 14 years of age. However, keeping in mind the fact that there is no sexual act which has been attributed to the petitioner and further as per the statement of the victim she had returned to her house only on the persuasion of the petitioner. The challan has also been presented in the present case.

In view of the above and considering the fact that the trial is likely to take some time to conclude especially in view of the prevailing conditions on account of COVID-19 pandemic, no useful purpose would be served by keeping the petitioner behind the bars any further.

Without commenting upon the merits of the case, I deem it fit to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off.

December 17, 2020
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(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Yes/No
 Whether reportable: Yes/No