

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

**Criminal Misc. No.M-5753 of 2021(O&M)
Date of Decision: February 15, 2021**

Lalit

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Lupil Gupta, Advocate for the petitioner.

Mr.Tapan Kumar, DAG, Haryana.

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HARINDER SINGH SIDHU, J.

The petitioner has filed this petition under Section 438 Cr.P.C for grant of pre-arrest bail in case FIR No.401 dated 02.12.2020 under Sections 363, 366, 376(3)(n) of the Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012, Police Station Civil Lines, Sirsa.

The FIR was lodged on the statement of the mother of the victim, who alleged that on 02.12.2020 at about 12.00 O'clock in the day, when she returned home after purchasing household items she discovered that her daughter (victim) had gone somewhere without informing anyone. She further stated that she suspected that Lalit @ Pappu s/o Badri Prasad r/o Bai Mohalla Bhattu (petitioner herein) had enticed her daughter and taken her away. During investigation, the victim was recovered on 25.12.2020.

Ld. Counsel for the petitioner has contended that upon recovery, the statement of the victim was recorded under section 164 CrPC, wherein, she denied any sexual assault. The next day i.e., on 26.12.2020, the counselling of the victim was got conducted. She refused to accompany her parents whereupon her custody was handed over to Bhai Kanhaiya Ashram as per directions of the Child Welfare Committee. It is stated that after a long delay of 27 days, on 22.01.2021 the victim along with her parents appeared before CWC Sirsa and gave her consent for her medical examination. After her medical examination and recording of statement under Section 164 CrPC wherein she levelled allegations of rape against the petitioner offences punishable under Sections 376(2)(n) IPC and Section 6 of the POCSO Act were added in the FIR.

Ld. Counsel for the petitioner has argued that the victim had gone with the petitioner of her own volition. She did not make any allegation of sexual assault against the petitioner in her first statement under Section 164 CrPC recorded immediately upon her recovery. It was only 27 days thereafter she appeared with her parents for medical examination and levelled allegations of rape.

Opposing the pre-arrest bail plea, Ld. Deputy Advocate General has argued that during investigation it has been found that as per the Primary School Certificate of the victim her date of birth is 19.05.2006. Accordingly, on the day of alleged kidnapping i.e. 02.12.2020, she was less than 15 years of age.

Having heard Ld. Counsel for the parties and considering the serious allegations and the age of the victim, who is a child below 15 years,

without commenting anything on merits, this Court find no ground to grant anticipatory bail to the petitioner.

Petition dismissed.

February 15, 2021

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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No