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

**CRM-M No.22175 of 2021
Date of Decision: 07.07.2021**

AJIT SINGH

.....Petitioner

Vs

STATE OF HARYANA

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. S.S. Duhan, Advocate
for the petitioner.

Mr. Rajat Gautam, D.A.G., Haryana.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.0414 dated 10.11.2020, registered under Sections 363, 366-A IPC and Section 8 of the POCSO Act (added later on) at Police Station Sadar Jind, District Jind.

The FIR was registered at the instance of the complainant Satyanarayan with the allegation that her daughter Shakshi aged 16 years and 4 months has been abducted by the

petitioner. Action be taken against the accused persons.

Learned counsel for the petitioner submitted that the girl was recovered by the Police and was produced before the Magistrate and her statement under Section 164 Cr.P.C. was recorded. The prosecutrix stated that she went with the petitioner for roaming of her own. On 10.11.2020, she made a call to her family members from Chhoti Koth and her family brought her home. She further stated that she is not willing to live with her family members, rather wants to live with the petitioner. She was also produced for medical examination where she refused to be medically examined and further stated that no wrong has been committed with her.

Learned counsel further submitted that offence under Section 363 IPC is bailable and the ingredients of offence under Section 366-A IPC i.e. procurement of minor girl are not attracted in the present case. Similarly, the offence under Section 8 of the POCSO Act is also not attracted as there is no allegation of sexual assault in terms of Section 7 of the aforesaid Act.

On the other hand, learned State counsel opposed the bail on the ground that minor has been abducted from the lawful custody of her parents and, therefore, offence under Section 363 IPC is clearly made out. Petitioner is in custody since 12.11.2020 and charges have been framed.

Having heard learned counsel for the parties, I am of the view that the complicity of the petitioner in terms of offence under Sections 363 and 366-A IPC would remain debatable. The prosecutrix/victim has refused for medical examination. She has not alleged any wrong act committed by the petitioner. Even though her consent is irrelevant, but the ingredients of offence in terms of Section 366-A IPC would remain debatable. Commission of offence under Section 7 of the POCSO Act would also be debatable for want of any such allegation.

Keeping in view the aforesaid facts and circumstances, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

July 07, 2021
Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No