

Present: Sh. Gagandeep Singh, Counsel for bail-applicant
Sh. Husan Bansal, Additional Public Prosecutor for
state.

1. The ld. Trial Court record produced and perused.

2. Heard.

3. From the police record, it is evident that one Darbara Singh (complainant) has set the police machinery into motion by getting registered an **FIR no.0133 dated 28.05.2020, U/s 363, 366A, 120-B IPC against Lakhwinder Singh (bail-applicant), Jaggi Singh, Toti Singh (co-accused)**. It is evident that the complainant has levelled allegations that when he woke up at about 5.00 A.M on 27.05.2020, he found that his daughter namely.....(**name concealed hereinafter referred as victim**) was not lying on her bed and she was tried to be located at his own level, but he failed. The complainant has levelled allegations against bail-applicant that he had kidnapped his daughter on the pretext of marrying her and Jaggi Singh and Toti Singh (co-accused) had also played pivotal role for kidnapping of his daughter.

4. Although, the complainant, while setting the police machinery into motion, has not broken his silence with regard to the exact date of birth of his daughter, yet, during investigations, her date of

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birth record was procured. As per date of birth record of the daughter of complainant, she recorded to be born on 01.05.2005. The ld. Counsel for bail-applicant has placed on record photocopy of 'adhar' card of the victim, wherein, her date of birth is recorded as 01.05.2000. Therefore, there are two different documents regarding date of birth of the victim i.e. certificate issued by the Registrar, wherein, her date of birth is recorded as 01.05.2005 and copy of 'adhar' card, wherein, her date of birth recorded is 01.05.2000. Therefore, coming to the conclusion regarding the preferences of the documents to be followed as per procedure to be followed for determining the age of a "child" on the pattern of "Juvenile" **under Rule 12 of Juvenile Justice (Care & Protection of Children) Rules, 2007**, the certificate issued by the Registrar has got significance as compared to that of the copy of 'adhar' card. Therefore, I am of the view to take the date of birth of victim recorded as 01.05.2005 in the certificate issued by Registrar, whereas, the occurrence had taken place in the intervening night of 26 / 27.05.2020, therefore, victim was approximately 15 years of age.

5. It is worthwhile to discuss here that there are no allegations of rape or sexual harassment, levelled by the victim against the bail-applicant. Had the victim levelled allegations of her sexual harassment or rape etc., while suffering statement U/s 164 Cr.P.C, then certainly, during investigations, the corresponding offences would have been added.

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Therefore, at the most, the allegations are U/s 363, 366-A IPC, which are subject matter to be decided on merits. The co-accused have been granted regular bail by the Hon'ble High Court of Punjab and Haryana. Therefore, evaluating the case of bail-applicant at par with the co-accused and the bail-applicant is in custody since 18.07.2020. No useful purpose is going to be served by keeping the bail-applicant in judicial lockup, as the conclusion of trial is going to take indefinite time. Furthermore, in view of prevailing scenario of Pandemic Covid-19, congestion in the jail is to be avoided. In view of whole scenario, I deem this case fit, where the **bail applicant is entitled to regular bail. The bail-applicant is ordered to be admitted to bail in the sum of Rs.50,000/- with one surety in the like amount to the satisfaction of Id. Illaqa / Duty Magistrate.** Accordingly, regular bail application filed on behalf of bail applicant is **allowed**.

The observation made by the under-signed vide this order, shall have no bearing on the merits of case.

Police record be returned.

The bail application is ordered to be consigned to record room.

Pronounced in open court
Dt. 23.12.2020.

(Jaswinder Sheemar),
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Veena Saluja,
Stenographer Gr.I.

Certified that the order has been directly dictated by the
undersigned.

Dt. 23.12.2020.

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