

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

Criminal Misc. No.M-13397 of 2016(O&M)

Date of Decision: May 30, 2016

Rohit @ Ravit son of Shri Surender Pal

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Tanveer Ahmed Mir, Advocate with
Mr.Munish Behl, Advocate for the petitioner.

Mr.Vivek Saini, Deputy Advocate General, Haryana.



TEJINDER SINGH DHINDSA, J.

The present petition has been filed under section 439 of the Code of Criminal Procedure seeking benefit of regular bail to the petitioner pending trial in case FIR No.135 dated 15.5.2014, registered at Police Station Kalanaur, District Rohtak, Haryana under Sections 364-A, 387, 120-B of the Indian Penal Code and Section 25 of the Arms Act.

2. Briefly noticed, FIR came to be registered on the statement of Adarsh Malhotra, who stated that on 15.5.2014, at about 6.30 a.m., his son Parichay Malhotra, aged 16 years, had left home for going to school in an I20 Car bearing registration No.HR-12-W-7100. At about 8.00 a.m., effort had been made to contact his son on Mobile No.8607771772, but the same was switched off. Complainant asserted that his son, who was in school

uniform, has been abducted by some unknown persons. On such statement, a case was registered under Section 365 of the Indian Penal Code. During investigation, complainant Adarsh Malhotra informed that he had received a telephonic call from an unknown person from the mobile number of his son and a ransom demand of ₹2 crores for releasing his son had been made and he had been threatened that if such amount is not paid, then his son Parichay would be killed. Based on such information, offence under Section 365 of the Indian Penal Code was deleted and offence under Sections 364-A/387/120-B of the Indian Penal Code and Section 25 of the Arms Act was added.

3. As per prosecution version, on 20.5.2014 one Indica Car bearing registration No.DL-3CAF-5768 was intercepted and the present petitioner as also Sandeep @ Sonu son of Kartar Singh stated to be the occupants were arrested. On the disclosure made by Sandeep @ Sonu, one Ajay son of Raghubir came to be arrested and an Alto Car bearing registration No.HR-19B-8489 was found from his possession. The custodial interrogation of Ajay son of Raghubir led the police officials to a village in District Baghpat, U.P. and to the house of one Sandeep son of Baljor and pursuant thereto, Sandeep son of Baljor, Ajay @ Fauji son of Rakesh, Rajiv son of Mahipal and Sanjeev @ Jwala son of Raj Bahadur were arrested and from their possession, the kidnapped child Parichay Malhotra was recovered.

4. Petitioner has been in custody since 20.5.2014.

5. Upon completion of investigation, the challan stands presented on 27.6.2014 nominating as many as eleven accused including the present petitioner.

6. Learned State counsel has vehemently opposed the present petition stating that the allegations against the petitioner and other co-accused are serious and grave in nature i.e. of kidnapping of a child and demand of a ransom of ₹2 crores. Learned State counsel further contends that car of the petitioner had been used to kidnap the boy. Prayer for bail is also opposed by stating that the victim has identified the petitioner in Court.

7. Learned counsel for the petitioner, however, has argued that the only allegation against the petitioner is that he had supplied a Santro Car to one Ajay son of Raghubir and it is the prosecution case itself that it were Ajay son of Raghubir, Satish son of Ram Chander and Jitender son of Hari Ram who had kidnapped the boy. The petitioner is sought to be implicated on the accusation that he was a conspirator to the offence having supplied the Santro Car to Ajay son of Raghubir. Learned counsel has also argued that the place of confinement of the kidnapped boy as per prosecution has not emanated from the disclosure statement of the present petitioner, but rather from the disclosure of other co-accused. Further argued that from a reading of the testimony of PW1 Adarsh Malhotra and PW5 Parichay Malhotra, it has nowhere been deposed that the present petitioner had raised a demand of ransom by putting the kidnapped child or a relative under threat of injury or death. Learned counsel further submits that the deposition of PW1 and PW5 does not even indicate that the petitioner herein had agreed to participate in placing the demand for ransom or kidnapped/abducted the victim or confined the victim in order to enable others to place the ransom demand. Precise argument raised is that the fundamental ingredients of Section 364-A read with Section 120-B of the Indian Penal Code are not made out against the petitioner.

8. In the considered view of this Court, petitioner is entitled to the benefit of bail.

9. Petitioner has faced incarceration for a period in excess of two years. Material witnesses i.e. complainant Adarsh Malhotra as also the victim Parichay Malhotra have already been examined before the trial Court. The contentions and submissions raised by learned counsel appearing for the petitioner and noticed hereinabove do prima facie indicate towards moot aspects concerning the case and to be considered and adjudicated upon by the trial Court.

10. It is not the case made out on behalf of the State that if the petitioner is granted the benefit of bail, he would be in a position to hamper and influence the course of trial.

11. In view of the above, prayer made in the present petition is accepted. Petitioner be enlarged on bail subject to the satisfaction of trial Court/Duty Magistrate, Rohtak.

12. It is, however, clarified that the observations contained in this order are confined only as regards considering the prayer of the petitioner for grant of bail and would have no bearing on the merits of the case.

13. Disposed of .

(TEJINDER SINGH DHINDSA)
JUDGE

May 30, 2016

SRM

Note: Whether referred to Reporter? (Yes/No)