

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

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CRM-M-16762-2020
Decided on : 28.08.2020

Suraj

... Petitioner

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr.A.P.S.Rehan, Advocate, for the petitioner.

Mr.Rana Harjasdeep Singh, DAG, Punjab.

(The proceedings are being conducted through video conferencing,
as per instructions.)

G.S. Sandhawalia, J. (Oral)

Petitioner seeks grant of regular bail in a petition filed under Section 439 Cr.P.C. in FIR No.65 dated 02.05.2019 registered under Sections 363 & 366-A IPC at Police Station City Batala, District Gurdarpur.

It is the case of counsel for the petitioner that the petitioner is in custody since 15.06.2019 and thus, has undergone more than 1 year 2 months and 4 days as per the custody certificate dated 19.08.2020. It is submitted that the petitioner was chargesheeted on 26.09.2019 under Sections 363 & 366-A IPC by the Trial Court but the provisions of Section 366-A were not made out as there is no such allegation that the minor girl was to be seduced and intercourse by another person. It is further submitted by referring to the zimni orders which are placed on record that on 26.09.2019, the prosecution witnesses were not coming forth and apart from PW-1, Meena who was examined on 10.01.2020 and Dr.Suchetan, no other witness has been examined. It is the case of counsel for the petitioner that the victim and her family have gone back to their home town at Uttar Pradesh and the petitioner therefore should not continue under detention and he is young man of 19 years.

State Counsel has raised an objection that the victim has not been recovered. Resultantly, affidavit of the Investigating Officer was required to be filed.

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SI-Sarvan Singh has filed his affidavit dated 26.08.2020 in which he has deposed that the petitioner was arrested from Rajapur Police Station Jaitpura District Ambedkar Nagar Uttar Pradesh on 09.06.2019. The petitioner had given a disclosure statement that the kidnapped girl was taken away by her mother one day prior to his arrest and a case diary no.12 dated 15.06.2019 had also been got recorded by the Investigating Officer.

In such circumstances, this Court is of the opinion that since the statement of the victim herself has not been recorded and her mother, Amriti Devi are not coming forth, the petitioner cannot be kept in further detention. Petitioner was arrested on the statement of the said complainant on the ground that her daughter was 15 years of age and a student of 8th class and had left for school but had not returned to home on 02.05.2019. Suspicion had been raised upon the petitioner that he had enticed away her daughter with intention to marry her and his mobile number was switched off.

In such circumstances, keeping in view the above facts, this Court is of the opinion that the petitioner is entitled for the benefit of regular bail as trial is likely to take considerable time to procure the presence of the complainant and her daughter.

Accordingly, the present petition is disposed of by directing that the petitioner shall be released on regular bail to the satisfaction of the Ilaqa/Duty Magistrate Gurdaspur on furnishing of heavy bail/surety bonds since the petitioner belongs to the state of Uttar Pradesh. Needless to say that anything said herein is only for the purpose of deciding the present bail application and this Court has not opined on the merits of the case.

(G.S. SANDHAWALIA)
JUDGE

AUGUST 28, 2020
sailesh

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No