

Gurpinder Singh @ Pinda

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Nishan Singh Chahal, Advocate,
for the petitioner.

Mr. Sukhbeer Singh, A.A.G., Punjab.

Mr. Achin Gupta, Advocate,
for the complainant.

AMOL RATTAN SINGH, J. (ORAL)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

This petition has been filed under the provisions of Section 439 of the Cr.P.C. seeking 'regular bail' for the petitioner in case FIR no. 62, dated 05.08.2020, registered at Police Station Sadiq, District Faridkot, for the alleged commission of offences punishable under Sections 363 and 366-A of the IPC.

Learned counsel for the petitioner points to the order of this court on 06.11.2020, in the case of a co-accused, Kuldeep Singh, with whom the petitioner is seeking parity.

Learned State counsel, on instructions, does not deny the fact that the petitioners' case is no different from Kuldeep Singh and though both he and learned counsel for the complainant oppose the grant of bail to the petitioner, I would see no reason to deny the same.

The order admitting Kuldeep Sigh to bail on 06.11.2020 reads as follows:-

“All the cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

By this petition, filed under the provisions of Section 439 of the Cr.P.C., the petitioner seeks the concession of ‘regular bail’, upon FIR no.62, dated 05.08.2020, having been registered at Police Station Sadiq, District Faridkot, alleging therein the commission of offences punishable under Section 363/366A of the IPC.

Learned counsel for the petitioner submits that though the petitioner has been named in the FIR as one of the persons who came and took away the complainants’ daughter from her home, however, even in her statement recorded under the provisions of Section 164 of the Cr.P.C., she has not named the petitioner anywhere in her entire statement, and in fact stated that she had gone of her own accord with one Manpreet Singh, and that Manpreet Singhs’ brother-in-law had also met her and Manpreet Singh and left them at Village Sadiq in the house of the paternal aunt of Manpreet Singh.

Learned State counsel obviously could not deny that factual position on the record, though he submits that the petitioner has been named in the FIR.

Mr. Gupta, learned counsel for the complainant, on the other hand submits that the girl being about 15-16 years of age, it is a clear case of enticement and her statement recorded under Section 164 of the Cr.P.C., to the effect that she left her home of her own accord, is meaningless.

He also points to the medico legal report (Annexure P-3) to submit that sexual intercourse having taken place cannot be ruled out.

Having considered the matter, it is first to be noticed that even in the said MLR the person who is stated to have (allegedly) taken away the girl from her house, is named as Manpreet Singh (and not the petitioner).

That being so, with the petitioners' name not coming either in the statement of the minor before the learned Magistrate or even in the MLR, without making any comment on the actual merits of the case, this petition is allowed, with the petitioner ordered to be enlarged on bail, upon his furnishing adequate bail and surety bonds to the satisfaction of the trial court/Duty Magistrate concerned."

In view of the above and admittedly the case of the present petitioner, i.e. Gurbinder Singh @ Pinda, not being any different from that of Kuldeep Singh, without making any comment on the actual merits of the case, the petition is allowed. The petitioner shall be admitted to bail upon his furnishing adequate bail bonds and surety bonds to the satisfaction of the learned trial court/Chief Judicial Magistrate/Duty Magistrate concerned.

December 16, 2020

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Whether speaking/reasoned
Whether Reportable

(AMOL RATTAN SINGH)

JUDGE

Yes
No.