

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-42410-2020 (O&M)
Date of Decision:- 21.12.2020

Gurwali Singh alias Kala

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Parveen Chauhan, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by ASI Amarjeet Singh.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in respect of a case registered against him vide FIR No.434, dated 16.12.2019, Police Station Sadar, Tarn Taran, under Sections 365, 376-D, 354-A, 120-B IPC and Section 6 of POCSO Act.
2. The FIR was lodged on 16.12.2019 at the instance of the victim wherein it is alleged that on 10.12.2019 after she and other members

of the family went off to sleep, somebody knocked at outer gate of their house at about 10 pm. and when she went outside and asked as to who was knocking, then Gurmail Singh, who was already known to her stated that he has to meet Dheera Singh upon which she opened the gate. It is alleged that however, she found that there were 3 motorcycles and that she was forcibly dragged by Gurmail Singh and was abducted with the help of others who were present there and was taken to Gurmail Singh sister's house where Gurmail Singh raped her.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that it is a case where the victim had voluntarily left her house and in fact had later solemnized marriage with the petitioner. It has further been submitted that the marriage of the petitioner with the victim was solemnized on 14.6.2020 and that apprehending threat to their lives especially at the hands of family of the victim they had approached the District Judge, seeking protection who had issued necessary directions to the Commissioner of Police, Amritsar as well as to the SHO concerned for extending protection. It has further been submitted that when the statement of the victim was recorded on 22.6.2020 in terms of Section 164 Cr.P.C. she refused to accompany her parents and rather requested that she be sent to Nari Niketan.
4. Opposing the petition, the learned State counsel has submitted that since the victim was a minor, therefore, her consent if any would be immaterial. It has further been submitted that when the statement of

the victim was recorded in terms of Section 164 Cr.P.C. on 18.12.2019 she categorically stated against the petitioner and as such the petitioner does not deserve the concession of bail especially keeping in view the tender age of the victim who was aged barely about 16 ½ years. The learned State counsel has however, informed that the petitioner as on date has been behind bars since the last about 6 months.

5. I have considered rival submissions addressed before this Court.
6. Having regard to the facts and circumstances of the case especially that the petitioner is stated to have solemnized marriage with the victim and who herself does not wish to reside with her parents and while keeping in view the fact that the trial in its normal course is likely to consume time, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

December 21, 2020

mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No