

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

Criminal Misc.-M No.37835 of 2020 (O&M)

Date of Decision: May 28, 2021

Gurpreet Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Swarn Tiwana, Advocate,
for the petitioner.

Mr. Ramandeep Sandhu, Sr.DAG, Punjab.

Mr. Onkar Rai, Advocate,
for the complainant.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.267 dated 04.08.2020, under Sections 363, 366-A, 376-D, 120-B IPC, 1860 and Sections 6-G and 11 POCSO Act, 2012, registered at Police Station, Phillaur, District Jalandhar Rural. The petitioner is in custody since his arrest on 22.08.2020.

The above FIR was registered on the statement of Jagan Nath complainant, wherein it was stated that on 01.08.2020 at 4.00 p.m., his niece Chahat daughter of Ashok Kumar, aged about fifteen years, went from home to take medicine, but till date she has not come back. We tried our best to trace her but did not succeed. We have doubt that some unknown person has kidnapped my niece by enticing her with bad intention. My niece be traced, so that any unforeseen incident may not occur with her.

Learned counsel for the petitioner has argued that complainant Jagan Nath has falsely implicated the petitioner as his wife was residing with petitioner at Malaysia, who had borrowed money from him and when he demanded back his money, the present case was lodged by the complainant. Learned counsel has further drawn the attention of the court to the statement of the victim recorded on 06.04.2020 during the trial proceedings as PW-1 to contend that she has not supported the prosecution case and was declared hostile. According to him, the complainant also testified before the court as PW-2 and has not supported the prosecution. He submits that since the material witnesses have been examined, therefore, the further custody of the petitioner may not be necessary as the trial is likely to consume considerable time to conclude. He prays for bail.

On the other hand, the prayer is opposed by the learned State counsel, assisted by ASI Jaigopal as well as learned counsel for the complainant, on the ground that the offence is serious and specific allegations were levelled by the complainant and victim against the petitioner. He submits that the petitioner was already known to the family of the victim, therefore, he does not deserve the concession of bail as sixteen prosecution witnesses still remain to be examined.

At this stage, learned counsel for the petitioner has invited the attention of the court to the scientific evidence, i.e., the DNA report dated 17.02.2021 to highlight that no semen was found on the exhibits sent for analysis. It is further pointed out that in a similar manner, another accused was prosecuted by the complainant and the prosecutrix through FIR No. 147 dated 13.05.2017, under Sections 376, 511 IPC and Sections, 3 and 4 POCSO Act, 2012.

After hearing the learned counsel for the parties and considering the above background, this court is of the opinion that as the material witnesses, i.e., the complainant and the prosecutrix have been examined, so the further detention of the petitioner behind the bars may not be necessary for any useful purpose, who is presently confined in judicial custody after his arrest on 22.08.2020. Apart from it, the belligerent re-emergence of pandemic COVID-19 in the region has once again forced the governments of Punjab, Haryana and U.T.Administration, Chandigarh to impose various restrictions to clampdown the contagion, and it would further delay the conclusion of trial.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate, Jalandhar.

May 28, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No