

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-336-2021 (O&M)
Date of Decision: 11.01.2021

Sukhwinder Singh alias Sukha

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Narender Singh Kamboj, Advocate,
for the petitioner.

Mr. Luvinder Sofat, Assistant Advocate General, Punjab,
for the respondent.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure, for seeking grant of regular bail to the petitioner in FIR No.106 dated 09.08.2020, under Sections 363 and 366-A of the Indian Penal Code, registered at Police Station Sadar Kotkapura, District Faridkot.

The allegations which have been mentioned in the FIR are that the complaint was lodged by one Gurmit Singh son of Karnail Singh by stating that his minor daughter aged 16 years had gone to village Panj Grain Kalan to stay with her sister-in-law as she was not well and thereafter, his daughter had to come back to his house at Safuwala and he had come on motorcycle with the son of sister-in-law, who is the petitioner in the present case but they did not reach the home and on inquiry for the same, they could

not trace them.

The learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case because in the present case, the offences under Sections 363 as well as Section 366-A IPC are not made out even on the face of it. He referred to the statement made by the prosecutrix under Section 164 Cr.P.C. vide Annexure P-2, wherein she stated that she had gone with the petitioner to Amritsar with her own consent and that the petitioner has neither done any force with her nor Sukhwinder Singh had done any type of wrong act with her and they had gone to bow before the God. It is further stated in the statement that the petitioner is innocent and that now she wants to go with her parents so that lateron she may get married with the petitioner and that the parents of the petitioner may withdraw the complaint.

The learned counsel for the petitioner has further submitted that on the face of it, the ingredients of Section 366-A IPC are not made out and so far as the Section 363 IPC is concerned, the same is bailable in nature. He has further submitted that the challan after the investigation of the present case is already complete and after the presentation of the challan, the charges have been framed and the case is now fixed for prosecution evidence and the petitioner is in custody since 12.08.2020. He has further submitted that in view of the statement which has been made by the girl under Section 164 Cr.P.C., he may be granted the concession of regular bail.

On the other hand, the learned State Counsel has submitted that in the present case although the girl has made a statement that she had gone with the petitioner on her own consent but the girl being a minor the same

may not be considered.

I have heard the learned counsel for the parties.

So far as the custody of petitioner is concerned, the same is not in dispute. A perusal of the statement made under Section 164 Cr.P.C. would show that the girl had made a statement before the Magistrate that she had gone with the petitioner on her own consent and that no wrongful act has been committed by the petitioner and that in fact, they wanted to marry each other later on. It is not the case of the State that in case the petitioner is released on bail then he may influence the witnesses or tamper with the evidence.

Therefore, given the peculiar facts and circumstances of the case, I deem it fit and appropriate to admit the petitioner to bail. Consequently, the present petition is allowed. The petitioner shall be admitted to regular bail on his furnishing bail/surety bonds subject to the satisfaction of the learned trial Court/Duty Magistrate.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

11.01.2021
Ithlesh

Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No