

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(214)

CRM-M-13883-2022

Date of decision: - 07.04.2022

Gurpreet Singh @ Peeta

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Sandeep Arora, Advocate,
for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is a first bail application under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.104 dated 20.08.2020 registered under Sections 363, 370(4), 120B IPC at Police Station Division no.4, District Police Commissionerate, Jalandhar.

The present FIR was lodged on the complaint of one Roshan Kumar who stated that on 20.08.2020, he had taken Khushboo Devi, wife of his brother Deepak Singh, to the Civil Hospital, Jalandhar as she was expected to deliver a child. The said Khushboo Devi delivered a male child at about 12.50 PM. The doctor informed the complainant party that they will have to arrange blood for the child and the child would be examined at the children's ward. The child was ultimately taken to the

children's ward and the nurse present there informed that the child has been kept in the machine. Thereafter, the complainant along with his aunt went to get the file prepared and when they came back, the child was not there. It was alleged that the child had gone missing due to negligence of the doctor and nurses. An FIR was lodged on the account of the same. Investigation was carried out in the present case. Gurpreet Singh @ Gopi was apprehended after the CCTV footage was seen in which a bolero car bearing registration no.PB08CG-2473 was spotted and after checking the ownership of the same, the owner was identified and it was further found that two persons had taken the child in the said car and said two persons were Gupreet Singh @ Gopi and Gurpreet Singh @ Pita (present petitioner). Further, said Gurpreet Singh @ Gopi in his disclosure statement stated that he along with Gurpreet Singh @ Pita (present petitioner) had got a new born child from Civil Hospital, Jalandhar, which was handed over to them by Kiran, who was working as Sweeper in the hospital. It was further stated that the child had been handed over to co-accused Davinderjeet Kaur @ Aman and her alleged husband Ranjit Singh @ Rana (present petitioner) by Gurpreet singh @ Gopi and Gupreet Singh @ Pita. It was found that Sweeper Kiran, who was on duty on 20.08.2020 in the children's ward, had kidnapped the new born child and had handed him over to said two persons. Further, as per the prosecution case, the child was recovered from Davinderjit Kaur from a rented accommodation at Mandir Balmiki, Village Khurshaidpur Colony. The said Davinderjit Kaur is stated to be still in custody. During further investigation, it has been found that one Rekha Khanna resident of

Ludhiana, had asked Davinderjit Kaur to arrange a new born baby for which she promised to pay Rs.4 lacs to Davinderjit Kaur. Then, Davinderjit Kaur talked to Kiran who was working as a Sweeper in the children's ward at Civil Hospital, Jalandhar, to make arrangements of a new baby and offered her Rs.80,000/- for the said act.

Learned counsel for the petitioner has submitted that the petitioner is only a driver and he was working with Gurpreet Singh @ Gopi and he was not aware about the criminal intent of the said Gurpreet Singh @ Gopi. It is further submitted that co-accused/Kiran, who was the sweeper and taken the child from the children's ward as well as Rekha Khanna, on whose asking the child was kidnapped, have already been granted the concession of regular bail by a Co-ordinate Bench of this Court, vide order dated 12.10.2021, passed in CRM-M-38014 of 2020 and CRM-M-39642 of 2020, respectively. It is further submitted that the present petitioner has been in custody since 23.08.2020 and the challan has been presented and there are 24 witnesses, none of whom have been examined yet, thus, the trial is likely to take time.

Learned State counsel, on the other hand, has opposed the present petition for the grant of regular bail and has submitted that it was the petitioner, who was driving the car, in which, he along with Gurdeep Singh @ Gopi (owner of the car), had handed over the child to one Davinderjit Kaur, who had to further give the baby to Rekha Khanna as Rekha Khanna had promised to give money to said Davinderjit Kaur for getting a male child. It is further submitted that there are call details, which also implicate the present petitioner in the present case and has

thus, prayed for dismissal of present bail petition.

Learned counsel for the petitioner in rebuttal has submitted that there is no transcript on record of the said alleged call details and as per settled law, mere call details cannot be used as corroborative evidence against the accused.

This Court has heard learned counsel for the parties and has gone through the paper-book.

It is not in dispute that the petitioner is not named in the FIR and the primarily allegations have been levelled against co-accused Rekha Khanna. It is not in dispute that the child has been recovered from Davinderjit Kaur and the said Davinderjit Kaur, as per the prosecution case, had promised Rekha Khanna to deliver a male child to her for monetary consideration. It is further apparent from the prosecution version, that it is was the co-accused/Kiran, who was working as a Sweeper and got the child from the hospital and both the said co-accused Kiran and Rekha Khanna, have already been granted the concession of regular bail by a Co-ordinate Bench of this Court in CRM-M-38014-2020 and CRM-M-39642-2020, respectively. The case of the petitioner is on a better footing than that of co-accused Kiran and Rekha Khanna. Moreover, the petitioner has been in custody since 23.08.2020 and the challan has already been presented in this case and there are 24 witnesses, none of whom have been examined, thus, the trial is likely to take time. Further, the petitioner is not involved in any other case.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on

bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

It is however made clear that in case the petitioner influences or threatens any witness, then it would be open to the State to move an application for cancellation of bail of the petitioner.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

April 07, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No