

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

210+111

CRM-M No.16859 of 2022 (O & M)
Date of decision:14.10.2022

Muksid Khan

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Naresh Kumar, Advocate
for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab.

SUVIR SEHGAL J. (ORAL)

CRM-38744-2022

Application is allowed as prayed for.

Testimony of the prosecutrix, who has been examined as PW-6,
is taken on record as Annexure P-4.

Main Case

This is the first petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.16, dated 29.01.2022 registered for offence under Sections 363, 366 and 380 of IPC, 1860, however, Sections 376 and 120-B of IPC and Section 06 of the Protection of Children from Sexual Offences Act, 2012, were added later on, at Police Station Dasuya, District Hoshiarpur, Annexure P-1.

Version of the prosecution is that FIR, Annexure P-1, has been registered on the statement of father of a 17 year old girl (hereinafter referred to as “the prosecutrix”) on the allegation that she is missing from her home and he suspects that Harpreet Singh, who had been engaged as a driver, has allured her on the pretext of marriage. It has been further alleged that Indian as well as American currency, gold ornaments, some electronic items as well as ATM card of the complainant were found to have been stolen.

Counsel for the petitioner urges that the petitioner has neither been named in the FIR nor in the statement of the prosecutrix recorded under Section 164 of Cr.P.C. It is his specific case that although the prosecutrix in her testimony, Annexure P-4, has stated that the petitioner, who is a *tantrik*, has extracted money from her, but there is no allegation of sexual assault against him. Counsel asserts that the petitioner, who is in custody since 13.02.2022 and enjoys a clean past, deserves to be enlarged on bail.

Per Contra, State counsel, upon instructions, has opposed the petition and has submitted that the name of the petitioner surfaced during the disclosure statement of main accused-Harpreet Singh. As per his instructions, 10 out of 17 witnesses have been examined by the prosecution.

Having considered the submissions addressed by counsel for the parties, this Court is *prima facie* of the view that the complicity of the petitioner in the crime would remain a subject matter of debate before the trial court. Noticing the role allegedly ascribed to the

petitioner, length of custody, stage of trial and the fact that all the material witnesses have been examined, this Court is of the opinion that the petitioner would be entitled to be released on bail during the pendency of the trial.

Without adverting to the merits or de-merits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be enlarged on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

14.10.2022

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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No