

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

CRM-M-22649-2022

Date of Decision: 5.8.2022

Fateh Singh alias Golu

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Ishan Gupta, Advocate, for the petitioner.

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

Mr. Digvijay Singh, Advocate, for the complainant.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.26 dated 17.2.2021, registered under Sections 363, 366-A IPC (Sections 212, 376 IPC and Section 6 of POCSO Act, 2012 added lateron), at Police Station City Kotakapura, District Faridkot.

As per factual matrix of the case, the FIR in question was lodged by complainant-Rajesh Kumar, wherein it was alleged that on 16.2.2021, his younger daughter i.e. the victim went out of home and thereafter, she did not return. They searched at their level, but failed to search her out. It was alleged in the FIR that Fateh Singh @ Golu had an evil eye on his daughter and it was suspected that he allured her away. Complaint was registered to lodge the FIR and to take legal action against the accused. On the basis of the complaint, the FIR was lodged and investigation commenced. During the investigation, the prosecutrix/victim was recovered from the company of the petitioner on 9.4.2021. Her statement was recorded under Section 164 Cr.P.C. and she was medically

examined. The petitioner was arrested on 9.4.2021. He approached the learned Addl. Sessions Judge, Faridkot for grant of bail, who, after hearing the parties, declined the same vide order dated 3.3.2022. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in the present case. He has submitted that the petitioner has been roped in this case only because of the victim being less than 18 years of age. He submits that the victim went missing on 16.2.2021 and was recovered after about two months on 9.4.2021. During this period, they remained at various public places only and there was no resistance whatsoever from the side of the victim. He further submits that though in the statement recorded under Section 164 Cr.P.C., she supported the version of her parents under their compulsion, however, she refused to go with her parents and thus, on her request, she was sent to Nari Niketan. To strengthen his arguments, he further submits that thereafter, the prosecutrix was examined by the trial Court as PW-2, wherein she did not support the case of the prosecution and thus, was declared hostile. He has submitted that as the prosecutrix later on joined the company of her parents, hence, she is living with her parents as on date and did not support the case of the prosecution. He submits that the co-accused Joga Singh has already been granted bail in this case. He further submits that as virtually half of the witnesses already stand examined including the prosecutrix, there is no possibility whatsoever of tampering with the evidence. He submits that in the facts and circumstances of the present case, the petitioner be enlarged on bail.

However, learned counsel for the complainant has opposed the submissions made by learned counsel for the petitioner. He submits that the victim was minor and she supported the case of the prosecution in her statement recorded under Section 164 Cr.P.C. He submits that there is every possibility that the petitioner would hamper with on going trial, if he is released on bail.

Learned State counsel has placed on record the status report by way of affidavit of Shamsheer Singh, PPS, Deputy Superintendent of Police, Sub Division Kotkapura, District Faridkot. She submits that the victim was minor thus, her consent has no legal sanctity. However, she acknowledges that the prosecutrix was recovered after about two months from the date of her missing. She submits that the prosecutrix has not supported the case of the prosecution while having been examined by the trial Court as PW-2, however, the complainant has duly supported the case of the prosecution. She further submits that out of total 28 prosecution witnesses, 13 witnesses already stands examined including the victim.

After hearing learned counsel for the parties and perusing the record, it is apparent that the petitioner is behind bars since 9.4.2021. The co-accused Joga Singh has already been granted bail and third accused Janta Singh is not yet arrested. However, there is nothing on record showing that the petitioner has any criminal antecedents. The victim already stands examined and she has not supported the case of the prosecution. The veracity of the allegations and counter allegations would be evaluated by the trial Court only after conclusion of the trial. The trial would take sufficient long time for its conclusion.

In the overall facts and circumstances of the case, I am of the

opinion that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

5.8.2022		(RAJESH BHARDWAJ)
sharmila		JUDGE
	Whether Speaking/Reasoned :	Yes/No
	Whether Reportable :	Yes/No