

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

CRM-M No.34243 of 2022 (O&M)
Date of decision: 14th December, 2022

Kuldeep Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Jatinder S. Gill, Advocate for the petitioner.

Mr. Gurpreet Singh, Addl. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

CM No.48402 of 2022

In view of the averments made in the application and in the interest of justice, the same is allowed as prayed for and the documents (Annexures P-6 and P-7) are taken on record.

CRM-M No.34243 of 2022

This is second petition of the petitioner filed under Section 439 Cr.P.C. in case bearing FIR No.160 dated 11.12.2019 under Sections 363, 366-A IPC (Sections 376/201 IPC and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 added later on) registered at Police Station Vairo Ke, District Fazilka.

Learned counsel for the petitioner submits that subsequent to the withdrawal of the previous petition seeking similar relief on

01.02.2021, the victim, who is the sole material witness in the case in hand, has been examined. Learned counsel, while inviting the attention of this Court to the FIR which has been annexed as Annexure P-1, submits that the complainant father alleged therein that his daughter (i.e. victim), whose date of birth is 15.05.2003, had been enticed away by some unknown person on the pretext of marriage, in the middle of the night from his house. Learned counsel submits that as per the allegations levelled in the FIR, the victim went missing on 22.11.2019 and strangely it was only on 11.12.2019 that the FIR in question was registered. Learned counsel submits that in fact it was a case of consensual relationship between two mature adults and the complainant father had intentionally mentioned the date of birth of the victim as 15.05.2003. He submits that the victim was an adult which fact was evident from the fact that while stepping into the witness box, the complainant deposed that his younger son, whose date of birth was 14.09.2003, was three years younger than the victim. Learned counsel submits that in the circumstances, it was obvious that a concocted version had been brought forth by the complainant while recording the FIR in question, for reasons but obvious. He submits that all these circumstances required to be appreciated in the light of a delayed FIR because it could not be digested that had a young girl aged 16 ½ years gone missing from the house of the complainant, he would have chosen to keep quiet for almost a month thereafter. Learned counsel further submits that since the trial is unlikely to conclude in the near future as

14 prosecution witnesses remain to be examined, the petitioner be extended the concession of bail. Besides this, it has also been submitted that since the victim, who is the sole material witness, stands examined, further incarceration of the petitioner would serve no useful purpose as there was no likelihood of the petitioner influencing the witnesses to depose in his favour.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not been able to dispute that the FIR in question was indeed registered after almost a month from the date when the victim went missing. He has also not been able to dispute that the father of the victim indeed deposed during his testimony before the trial Court that his son was born on 14.09.2003 and he was younger to the victim by three years. Learned State counsel on instructions has further not been able to dispute that the victim, who is the sole material witness in the case in hand, stands examined. However, he submits that the victim while stepping into the witness box, had levelled serious allegations against the petitioner of having enticed her away from her house and thereafter, violated her person.

I have heard learned counsel for the parties and perused the relevant material on record.

The trial is unlikely to conclude in the near future, as only 13 out of 27 prosecution witnesses cited, stand examined before the trial Court. The sole material witness i.e. the victim has already been examined and hence, further incarceration of the petitioner in the

present case would serve no useful purpose. As per instructions received by the learned State counsel, the petitioner is not involved in any other criminal case, much less in a case of similar nature. In the circumstances, this Court deems it fit to allow the concession of bail to the petitioner. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. However, nothing contained hereinabove shall be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

December 14, 2022

rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No