

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(236)

CRM-M-37050-2022

Date of decision:- 06.12.2022

Rajinder @ Billu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Karamjit Singh Chahal, Advocate
for the petitioner.

Mr. Ferry Sofat, Addl. A.G., Punjab for State-respondent.

Ms. Amandeep Kaur, Advocate for the complainant.

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SUVIR SEHGAL, J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of post-arrest bail in case FIR No. 61 dated 04.06.2020, registered for offences under Sections 363 and 366-A, of the Indian Penal Code, 1860, at Police Station Banur, District Patiala, Annexure P-1.

Case of the prosecution is that FIR, Annexure P-1, has been registered on the statement of father of a 16 year old girl (hereinafter referred to as "the prosecutrix") that on 03.06.2020, when he reached back home, he found that his daughter was missing. His younger brother found the prosecutrix at the house of Suresh Kumar and on spotting him, Rajinder @ Billu (present petitioner), Shinda @ Minda @ Shinder and Sandeep

Kumar @ Deep fled from the spot.

By referring to the testimony of the complainant as well as the prosecutrix and her mother, Annexures P-2 to P-4, respectively, counsel for the petitioner submits that all the three material witnesses produced by the prosecution have not supported the allegations levelled in the FIR and they have been declared to be hostile. Counsel asserts that the petitioner, who is in custody since 19.08.2020 and has a clean past, deserves to be enlarged on bail.

Per contra, learned State counsel has opposed the petition and upon instructions received from ASI, Mohander, State counsel submits that the allegation levelled against the petitioner is serious. He submits that the petitioner, who is the main accused, in connivance with co-accused had abducted the prosecutrix, though he could not deny that there is no allegation of sexual assault against any of the accused. As per his instructions, five out of fourteen prosecution witnesses have been examined.

Ms. Amandeep Kaur, Advocate has put in appearance on behalf of complainant. She submits that matter has been compromised and the complainant does not have any objection in case the petitioner is released on regular bail.

Having heard counsel for the parties, this Court is *prima facie* of the view that the complicity of the petitioner in the offence would remain controvertible before the Trial Court. The petitioner, who is in custody for the last more than twenty seven months, would be entitled to be enlarged on

bail as the trial is likely to take time to conclude as the prosecution is yet to examine nine more witnesses.

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

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

06.12.2022

Kamal

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