

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

(212)

CRM-M-919-2021

Date of decision:- 09.11.2022

Manga Singh**... Petitioner****Versus****State of Punjab****... Respondent****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Jashandeep Singh Sandhu, Advocate for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab for State-respondent.

SUVIR SEHGAL, J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short “the Code”) seeking grant of post-arrest bail in case FIR No.24 dated 04.02.2020, registered for offences under Sections 363, 366 and 120-B of the Indian Penal Code (for short “IPC”), 1860, however, later on Section 376, IPC and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 were added, at Police Station Kotbhai, District Sri Muktsar Sahib, Punjab.

Case of the prosecution is that FIR has been registered on the statement of mother of a sixteen year old girl (for short “the prosecutrix”) on the allegation that she has been enticed by Manga Singh, present petitioner, on the pretext of marriage. It has been alleged that Parvinder Kaur, who is the aunt of Manga Singh, has helped them in eloping.

Counsel for the petitioner has contended that the petitioner and the prosecutrix were having an affair and the prosecutrix left her paternal home of her own volition. He submits that the prosecutrix has been examined and in her testimony, Annexure R-1, she has denied that she was ever enticed or that she was sexually assault. Counsel submits

that as the most material prosecution witness has been examined, the petitioner, who is in custody since 06.02.2020, deserves to be temporarily released.

Opposing the petition, learned State counsel upon instructions received from ASI, Hardip Singh has made a reference to the statement of the prosecutrix recorded under Section 164 of the Code and has submitted that although the prosecutrix has stated that she left her paternal home on her own, but she has been sexually exploited. He, however, could not dispute her deposition. Still further, upon instructions, he states that besides the prosecutrix, her mother-complainant has been examined.

Having considered the respective submissions of counsel for the parties, this Court is prima facie of the view that the involvement of the petitioner in the offence would remain controvertible before the Trial Court. Considering the length of custody of more than thirty three months, stage of the trial, facts and circumstances of the case, this Court is of the opinion that the petitioner deserves to be enlarged on bail.

Without adverting to the merits or demerits of the arguments addressed, petition is allowed. Petitioner is ordered to be released on bail during the pendency of trial, 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.

09.11.2022

*Kamal***(SUVIR SEHGAL)
JUDGE**

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