

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

CRM-M-761-2023

Date of Decision: 20.04.2023

Gurpreet Singh @ Nikka

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Bhawesh Chaudhary, Advocate, for the petitioner.

Mr. Sandeep Kumar, Deputy Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.155 dated 05.06.2021, registered under Sections 363, 366, 376 IPC and Section 4 of POCSO Act, at Police Station Division No.B, District Amritsar.

As per facts of the case, the FIR was lodged on the statement of the complainant, wherein, it was alleged that they are three sisters and two brothers. Her brother Surinder Singh contacted second marriage with Sonia as his first wife left him without informing. His brother Surinder Singh has a daughter (victim) from his first marriage. After death of brother Surinder Singh, her sister-in-law Sonia used to go for job leaving her daughter (victim) in house of the complainant. On 03.06.2021, her sister found at about 5:00 a.m. that the victim was not present at home. On searching, they found her from one Gurdwara Shaheedan Sahib, Amritsar at about 8:30 a.m. and found her scared. On asking she told that Gurpreet Singh alias Nikka (petitioner) had allured her on the pretext of marrying her. He molested her and established physical relations with her without her consent. A request was made to take legal action against the culprit. On the basis of the

complaint, a formal FIR was registered and the investigation commenced. Statement of the victim was recorded under Section 164 Cr.P.C. and she was medically examined. The accused-petitioner was arrested on 05.06.2021. He approached the Court of learned Additional Sessions Judge, Fast Track Court, Amritsar for grant of bail, who, after hearing the parties, declined the same vide order dated 23.07.2021. Aggrieved by the same, the petitioner on the earlier occasion approached this Court by way of filing CRM-M-3648-2021, however, the same was allowed to be dismissed as withdrawn on 30.03.2022. Hence, the petitioner again approached this Court by way of filing the present petition for grant of bail.

It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. He has submitted that as per allegations made in the FIR, the complainant alleged that the victim was found missing from home on 03.06.2021 at about 5:00 a.m. and about 3½ hours thereafter she was found from Gurudwara Shaheedan Sahib, Amritsar. He submits that the victim was found on the same day i.e. 03.06.2021 and lodging of the FIR two days thereafter would show that the same has been lodged after due deliberation. He has submitted that the petitioner was arrested in this case on 05.06.2021. He has submitted that the petitioner is behind bars from the last about two years and the prosecution as well as the complainant has also been examined by the trial Court. He has submitted that till date the prosecution has examined only two witnesses, but as the material witnesses already stand examined, the petitioner is not in a position to influence the prosecutrix. He has submitted that the examination of rest of the witnesses would take sufficient long time and thus, the petitioner deserves to be

granted bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner and has submitted that the prosecutrix was 15 years of age and thus she being minor, the petitioner has no case for grant of bail. He has submitted that as the prosecutrix was traumatized after her recovery, hence the FIR was lodged two days thereafter. He has submitted that as per instructions received from ASI Gurparkash, the petitioner is being prosecuted in two more cases for the offence under the NDPS Act. He has submitted that in all there are 20 prosecution witnesses, out of which 2 witnesses are examined including the prosecutrix and the complainant.

Heard.

It is evident that the petitioner is behind bars since 05.06.2021. The prosecutrix went missing from home on 03.06.2021 and the FIR was lodged two days thereafter on 05.06.2021. Though as submitted by learned State counsel that the petitioner is facing trial in two other cases, however, both these FIRs are of the period when the petitioner was behind bars in the present case. There is no gainsaying that the material witnesses i.e. the complainant and the prosecutrix already stand examined and thus, the probability of petitioner influencing the material witnesses does not survive. The veracity of the allegations would be evaluated by the trial Court only after appreciation of complete evidence to be led by both the parties before it. This Court would refrain itself from commenting anything on the merits of the case, however, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial

would take sufficiently long time for its conclusion.

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.

It is being clarified that if the petitioner does not furnish bail bonds in this case within a week, then his custody would not be counted in this case.

20.04.2023

sharmila

Whether Speaking/Reasoned

Whether Reportable

:

:

(RAJESH BHARDWAJ)

JUDGE

Yes/No

Yes/No