

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

214

CRM-M-3634-2023

Date of Decision: 16.02.2023

Balakdeep Singh**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Abdul Aziz, Advocate for the petitioner

Ms. Dimple Jain, AAG, Haryana
(Assisted by SI Kanahiya Lal)

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant petition under Section 439 Cr.P.C., is seeking regular bail in FIR No. 225 dated 19.05.2022 under Sections 363 & 366 of IPC (Section 346 & 365 IPC stands deleted), registered at Police Station Model Town, Panipat, District Panipat.

2. The case of the prosecutrix is that on 19.05.2022, Biranjan Tiwari, complainant came to police station and moved a complaint alleging that he works as a Cable Jointer under Mittal Thekedar in BSNL. Daughter of his brother-in-law (brother of wife) used to live with him and she is 18 ½ years old. She is working with S.K. General Store, Jatal Road, Panipat and on 18.05.2022, she went missing from her work place. The prosecutrix was recovered, however, she refused to get herself medically examined. Her statement under Section 164 Cr.P.C. was recorded by learned Area Magistrate. The petitioner was arrested on 05.06.2022.

3. Learned counsel for the petitioner, *inter alia* contends that prosecutrix is staying with parents of the petitioner. She is present in Court and avers that she wants to solemnize marriage with the petitioner. The prosecutrix has lodged complaint with Superintendent of Police, Panipat making specific allegations against the complainant (*Fufa* of the victim). The petitioner is not involved in any other offence. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is permanent resident of District Malerkotla. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Custody certificate dated 15.02.2023 is taken on record. Registry is directed to tag the same at appropriate place.

5. Learned State Counsel submits that police report has already been filed and charges stand framed. He further submits that there are 13 witnesses, however, none has been examined. The petitioner is involved in the commission of grave offence, thus, no leniency is warranted and release of petitioner would hamper the trial.

6. In the case in hand, the victim is present in Court who has been identified by learned counsel for the petitioner. She has submitted that her uncle (*fufa*) wants to sell her and she at present is staying with parents of the petitioner. She is a fatherless child and her uncle wants to take advantage of the situation. Police report under Section 173 of Cr.P.C. stands filed, charges stand framed. There are 13 prosecution

witnesses and till date, none been examined, thus, there is abysmally low possibility of conclusion of trial in near future. As prosecution has right to arrest, investigate the matter and restrain an accused from manipulating or winning over witnesses, similarly accused in view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of Petitioner being flee from justice or tampering the evidences or winning over/threatening the witnesses.

7. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaqa/Duty Magistrate concerned.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

16.02.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>