

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

212

CRM-M-3800-2022

Date of Decision: 23.03.2023

Jagsir Singh Alias Bittu**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Rajesh Bhateja, Advocate for
Mr. Mandeep Kumar Dhot, Advocate for the petitioner

Mr. Amish Sharma, AAG, Punjab
(assisted by asi Gurdeep Singh)

Mr. Ashok Bhardwaj, Advocate for the complainant

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant petition under Section 439 Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking regular bail in FIR No. 210 dated 08.10.2021 under Sections 363, 366-A & 120-B of Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Dirba, District Sangrur.

2. The case of the prosecution is that an FIR came to be registered against the petitioner and his mother on the complaint of Pargat Singh son of Gora Singh. The complainant had alleged that on 07.10.2021 his wife Ranjit Kaur informed him that their daughter had gone for watering the rose plants but has not returned. They started her search but could not find her. She, at present, is in the custody of Jagsir Singh @ Bittu and his mother Gurmail Kaur.

3. Learned counsel for the petitioner, *inter alia* contends that petitioner has solemnized marriage with prosecutrix and they have filed petition before this Court seeking protection of their life and liberty. The prosecutrix stands examined and she has turned hostile. The petitioner is in custody since 21.10.2021. 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 Sangrur. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Custody certificate dated 22.03.2023 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 out of 17 witnesses, 6 have already been examined which includes prosecutrix. He fairly concedes that prosecutrix has turned hostile.

6. Learned counsel for the complainant submits though prosecutrix has turned hostile yet petitioner does not deserve to be released on bail because he has committed serious offence of kidnapping his daughter.

7. In the case in hand, the petitioner is in custody since 21.10.2021 and he is not involved in any other crime. The petitioner and prosecutrix had solemnized marriage. The Trial Court yet has to return definite findings on the disputed issues. There are 17 prosecution witnesses and till date only 6 have been examined, thus, there is abysmally low possibility of conclusion of trial in near future. The prosecutrix has turned hostile. 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.

8. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to be 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.

9. 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

23.03.2023
Mohit Kumar

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