

2023:PHHC:114922

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

204

CRM-M-4132-2023

Date of decision: 01.09.2023

GURWINDER SINGH @ GURI @ BACHHI

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM : HON'BLE MS. JUSTICE NIDHI GUPTA

Present: Mr. Naveen Bawa, Advocate
for the petitioner.

Mr. G.S. Arora, DAG, Punjab.

NIDHI GUPTA, J.(ORAL)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.58 dated 30.05.2022 under Sections 363 and 366 of IPC (Section 376-D of IPC, and Sections 4 and 6 of POCSO Act, 2012 added later on), registered at Police Station Dehlon, District Ludhiana.

2. The FIR was registered on the basis of statement of father of victim and is reproduced as under:-

“Statement of Gurcharan Singh son of Surjit Singh resident of Village Khera, Police Station Dehlon, District Ludhiana age approximately 42 years, mobile no. 8437089018, that I am the resident of the above said address and I do the work of labour at village Dehleej. I have two daughters and one son. The date of birth of my younger daughter namely Simranpreet Kaur is 03.11.2004. On dated 27.05.2022 at time approximately 7 PM, when I reached at home then saw that my younger daughter Simranpreet Kaur was not present at home. I verified that from my family members and from neighbourers but even then I could not get

any clue about my daughter that where is she? Later on, I came to know that my daughter has been enticed away by kidnapping on the pretext to perform marriage by Talwinder Singh resident of Village Mini Chhapar, District Ludhiana. I did not give any application with that regard at that time. Who came back to us on dated 28.05.2022, I am producing the photocopy of the 10th certificate to you of my daughter Simranpreet Kaur. Appropriate legal action may be taken against the boy namely Talwinder Singh resident of Village Mini Chhapar, District Ludhiana. I have got recorded my statement to you, in the presence of Member Panchayat Lakhanpal Singh. Which is heard, it is correct. Applicant Sd/- Gurcharan Singh above said.”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner was not named in the FIR dated 30.05.2022 although he was subsequently arrayed as an accused on the basis of supplementary statement of prosecutrix dated 31.05.2022. Learned counsel states that prior to the alleged incident prosecutrix had gone missing from her home on 27.05.2022 and had returned thereafter on 28.05.2022. It is further stated that initially there was no allegation of rape made against the petitioner, and the petitioner has been in custody since 06.06.2022.

4. Learned State counsel has filed custody certificate dated 31.08.2023 in Court today, which is taken on record as per which, the petitioner is in custody for a period of 01 year 02 months and 25 days. Learned State counsel further submits that as per FSL Report received, the presence of human semen has not been found on the exhibits submitted by the prosecutrix. He further submits that out of total 19 prosecution witnesses only 01 witness has been examined so far which is prosecutrix herself, who has supported the case of the prosecution.

5. I have heard learned counsel for the parties.

6. Without commenting on the merits of the case, in view of the fact that out of total 19 prosecution witnesses only 01 prosecution witness has been examined so far, which is the prosecutrix herself who has supported the prosecution case, and including the fact that no other case is pending against the petitioner as per custody certificate, and the petitioner is in custody since 06.06.2022 and has undergone 01 year 02 months and 25 days in custody, and conclusion of trial would take time, present petition is **allowed**; and petitioner-Gurwinder Singh @ Guri @ Bachhi S/o Karamjit Singh is ordered to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

7. However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

8. Pending application(s) if any also stand(s) disposed of.

September 01, 2023

nisha-II

**(NIDHI GUPTA)
JUDGE**

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No