

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

211

Criminal Misc. No. M-5382 of 2023

Date of decision :-31.08.2023

Sukhjinder Singh @ Harjinder Singh @ Mani

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Karandeep S. Sidhu, Advocate
for the petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab.

Mr. Vivek Sharma Vashist, Advocate
For the complainant.

NIDHI GUPTA J. (Oral)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner during pendency of the trial in case FIR No.93 dated 20.8.2022, under Sections 363 and 366-A IPC, registered at Police Station Sadar, Kapurthala, District Kapurthala.

The FIR has been registered on the statement of complainant Sukhwinder Kaur wife of Satnam Singh/mother of victim, which is reproduced hereunder :-

“It is stated that I am resident of above mentioned address and used to do house hold works. In the year of 1998 my marriage was solemnized with Satnam Singh s/o Kulwant Singh resident of

village Pakhowal. After marriage 3 daughters have taken in my family. The eldest girl is Paramjit Kaur, younger to her is Puja and the youngest is Kamaljit. The eldest daughter Kamaljit Kaur has passed 10+2 in the year of 2022. Her date of birth is 16.09.2005. She is minor. Her age is 17 years. He was at home without any work. She was having Mobile No. 98722-52196. Harjinder alias Many S/o Paramjit Singh is resident of Gali No. 02, Mohalla Santpura, Police Station City Kapurthala, who used to run shop of R.M.P. Doctor and he used to come in our house for giving medicine etc and was well known of us. Many times I have seen my daughter talking with him. I have said to my daughter that at present you are not at the age of marriage and we do not have any comparison with him. You should not have any relationship with him. We do not have any connection with him. You should not have to maintain any contact with him. My daughter used to call him without our knowledge. I used to stop her not to call. On date 18.08.2022 at time of about 11.00 AM of day time myself, my husband and my mother-in-law have gone for some work to City Kapurthala. All of my three daughters were at home. After about 2 hours have returned and then my daughters Paramjit Kaur and Puja have told that Kamaljit has left house for somewhere and has not returned. Till now we have conducted search for her. She has not returned till date. I am fully sure that Harjinder alias Many S/o Paramjit Singh resident of Gali No.02, Mohalla Santpura, Police Station Kapurthala has eloped my daughter to somewhere on the pretext of marriage by misleading and misguiding her. My daughter at the time of leaving

has taken away about 5 Tola of gold which was kept at house and about rupees 3 Lakh and 75 Thousand with her. The search for my daughter be conducted and legal action be initiated against Harjinder alias Many S/o Paramjit Singh resident of Gali No.02, Mohalla Santpura, Police Station Kapurthala City. I have got recorded my this statement in the presence of my husband Satnam Singh. I have recorded my statement, heard it and it is correct.”

Learned counsel for the petitioner *inter alia* submits that the victim was 17 years of age at the time of incident i.e. 18.8.2022, whereas the FIR was registered on 20.08.2022. It is submitted that the prosecutrix used to talk to the petitioner frequently despite being opposed by her mother/ complainant herein. It is submitted that the petitioner has been falsely implicated in the present matter because in the statement under Section 164 Cr.P.C., the victim has specifically stated that she went alongwith the petitioner on her own will and also stated that she has not been raped by the petitioner. In this regard, learned counsel has referred the GD No.22 dated 31.8.2022 (Annexure P-4).

Learned State counsel has filed the custody certificate dated 30.8.2023 and the Status report by way of affidavit of Dr. Manpreet Shinhmar, PPS, Deputy Superintendent of Police, Sub Division Kapurthala, dated 31.8.2023, on behalf of respondent-State, the same are taken on record, subject to all just exceptions. Copies of the same are handed over to learned counsel for the petitioner. As per the custody certificate, the petitioner is in custody since 11 months and 29 days and is not involved in any other criminal case. Learned

State counsel has referred to para 11 of the reply so filed, wherein it is submitted that the statement of victim was recorded under Section 164 Cr.P.C. before the Court of learned Judicial Magistrate 1st Class, Kapurthala and in her statement, the victim has categorically stated that the petitioner was running clinic in their village and she has developed relationship with him for the last eight months and her parents have come to know about this fact about two months ago. She further stated that her parents disagreed with solemnizing her marriage with the petitioner. She further stated that she had gone with the petitioner on 18.8.2022 to Pathankot at her own will, where they stayed in a hotel for two days and from Pathankot they went to Dalhousie and stayed in a hotel. She further stated that she had taken a sum of Rs.60,000/- and a gold ring from her home. She also stated that no rape has been committed upon her and also stated that the petitioner is innocent. Learned State counsel has further referred to para 13 of the reply wherein it is submitted that out of total 12 prosecution witnesses, the material witnesses i.e. the victim, mother of the victim/complainant-Sukhwinder Kaur, father of the victim, namely, Satnam Singh and a formal witness ASI Paramjeet Singh have been examined.

I have heard learned counsel for the parties and gone through the case file carefully.

After hearing learned counsel for the parties and in view of the aforementioned facts, this Court finds that the trial of the case is likely to consume considerable time as out of total 12 witnesses, only four have been examined so far and keeping in view the period

undergone in custody by the petitioner and the fact that the petitioner is not involved in any other criminal case, his further custody may not be justified. Therefore, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner-Sukhjinder Singh @ Harjinder Singh @ Mani s/o Paramjit Singh be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

The petition is allowed.

August 31, 2023

Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No