

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

CRM-M-14501-2023

Date of Decision: 09.10.2023

MOHAMMAD ARIF

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. A.S.Khinda, Advocate for the petitioner.
Ms. Ruchika Sabherwal, DAG Punjab.

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VIVEK PURI, J. (ORAL)

1. The petitioner is seeking regular bail in case bearing FIR No. 79 dated 12.12.2022 under Sections 363, 366-A IPC, registered at Police Station Bholath, District Kapurthala.
2. Custody certificate has been taken on record.
3. Briefly, the FIR has been registered on the basis of the statement of the father of the victim alleging that the date of birth of the victim is 14.12.2006. On 28.11.2022, the victim went missing from the house. It was suspected that the petitioner has enticed the victim on the pretext of solemnizing marriage.
4. Learned counsel for the petitioner contends that the charge has been framed under Sections 363 and 366-A IPC. The victim has not imputed any allegation against the petitioner in her statement under Section 164 Cr.P.C. Moreover, the statement of the victim during the course of trial has also been recorded. The petitioner is in custody for a period of 9 months and 16 days and not involved in any other case.
5. Learned State counsel submits that the victim has been recovered from the house of the petitioner on 28.12.2022. In her statement under Section

164 Cr.P.C. she has not imputed any allegation with regard to kidnapping against the petitioner. Moreover, the victim has refused to get herself medico-legally examined. It has been further submitted out of 21, 5 witnesses including the victim and her father have been examined and 4 witnesses have been given up.

6. It is significant to note that in her statement under Section 164 Cr.P.C., the victim has not attributed any allegation with regard to threat, pressure, force or allurement exercised upon her at the instance of the petitioner. Moreover, the victim has refused to get herself medico-legally examined. The statement of the victim and her father has been recorded and as such, it cannot be said that the petitioner can in any manner win over or influence these witnesses. The petitioner is in custody for a period of 9 months and 16 days and not involved in any other case. Still 11 witnesses remain to be examined. The conclusion of trial is likely to take some time and no fruitful purpose would be served by detaining the petitioner in further custody.

7. As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

8. The petition is allowed.

09.10.2023

Janki

**(VIVEK PURI)
JUDGE**

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