

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

216

CRM-M-15707-2023

Date of Decision: 11.04.2023

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

Present:- Mr. Daljeet Singh Kahlon, Advocate for the petitioner

Mr. Amish Sharma, AAG, Punjab
(assisted by ASI Balbir Singh)

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.122 dated 03.12.2021 under Sections 363, 366, 376, 354-D of Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Taragarh, Tehsil and District Pathankot.

2. The case of the prosecution is that complainant Chaman Lal filed a complaint alleging that he is working with BSF and he is having one son and one daughter. The age of daughter is 18 years and 9 months. On 02.12.2021 at about 08:00 AM, his daughter went to college on private bus but she did not come back. He came to know that his daughter, on the pretext of marriage, has been enticed by Karanbir Singh.

3. Learned counsel for the petitioner, *inter alia* contends that petitioner is in custody since 06.12.2021. The prosecutrix and her parents have already been examined and they have turned hostile. 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 Pathankot. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Custody certificate dated 10.04.2023 is taken on record. As per custody certificate, the petitioner is in custody since 07.12.2021 and he is not involved in any other offence.

5. Learned State Counsel submits that police report has already been filed and charges stand framed. He further submits that out of 26 witnesses, 4 have already been examined which includes prosecutrix and her parents.

6. In the case in hand, the prosecutrix and her parents have already been examined and they have turned hostile. The petitioner is in custody since 07.12.2021 and he is not involved in any other offence. The question of 'consent' in terms of Section 90 read with Section 375 of IPC has yet to be adjudicated by the Trial Court. There are 26 prosecution witnesses and till date only 4 have 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 be allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaq/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

11.04.2023
Mohit Kumar

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