

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.17719 of 2023
Date of decision: 20th April, 2023

Gagandeep Singh @ Gagan
... Petitioner

Versus

State of Punjab
... Respondent

CORAM: HON’BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Anil K. Spehia, Advocate for the petitioner.
Mr. Amit Rana, Sr. Deputy Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

This is second petition filed by the petitioner under Section 439 Cr.P.C. for grant of the concession of bail in case bearing FIR No.0050 dated 17.03.2019 under Sections 363, 366-A, 302, 201, 120-B IPC (Section 366-A IPC deleted and Sections 364, 376-D IPC along with Sections 3, 4 of the POCSO Act added later on) registered at Police Station Sultanpur Lodhi, District Kapurthala.

The previous petition filed by the petitioner seeking similar relief was dismissed on 22.02.2022.

On a pointed query put to the learned counsel for the petitioner as to what was the material change in circumstances, which would warrant entertaining the instant petition, he submits that subsequently, an application under Section 319 Cr.P.C. was moved by

the prosecution. The said application was allowed and co-accused Manjeet Kaur, Kulwinder Kaur and Harpreet Kaur have been summoned to face trial, as a result of which a de-novo trial has now commenced.

It has also been submitted that similarly situated co-accused Raj Kumar @ Raju had approached this Court by way of a second petition after the application under Section 319 Cr.P.C. was allowed by the trial Court and he has since been extended the concession of bail vide order dated 25.01.2023 (Annexure P-7).

Learned counsel submits that the petitioner has been in custody since 22.03.2019 and as a de-novo trial has now commenced, the likelihood of its concluding in the near future is remote. While drawing the attention of this Court to the allegations levelled in the FIR, which has been annexed as Annexure P-1, learned counsel submits that the complainant had alleged therein that her daughter/deceased had been fraudulently enticed away on the pretext of marriage by accused Phuman Singh and his family. Learned counsel further submits that a perusal of the FIR in question clearly reveals that there is no specific attribution qua the petitioner, much less of having murdered the deceased. It has also been submitted that the main accused Phuman Singh, who allegedly enticed away the victim/deceased, had died by suicide on the following day.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Jarnail Singh has not been able to controvert that the petitioner came to be nominated as an accused on the basis of statement made by co-villager Rani Nayyar and co-accused Raj Kumar, who stated that the petitioner had also connived with the co-accused to commit the crime in question. Learned State counsel has on further instructions conceded that accused Phuman Singh, who was the main accused and who had alleged enticed away the victim/deceased, had committed suicide on the following day of the death of the deceased. Learned State counsel further submits that seven prosecution witnesses out of 30 cited by the prosecution, have since been examined.

I have heard learned counsel for the parties and perused the relevant material on record.

Admittedly, a de-novo trial has commenced after summoning of the additional accused namely Manjeet Kaur, Kulwinder Kaur and Harpreet Kaur, hence, the trial shall take considerable time to conclude. Learned State counsel on instructions has not raised any apprehension of the petitioner fleeing from the process of justice in case he is enlarged on bail. In the facts and circumstances, as enumerated hereinabove, and considering the long incarceration of the petitioner, who admittedly has been in custody since 22.03.2019, this Court deems it fit to extend the concession of bail to the petitioner. The

petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. However, it is made clear that anything contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

April 20, 2023
rps

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