

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

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CRM-M-18993-2023

Date of Decision: 27.04.2023

Husna @ Kishna

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Kanwaljeet Singh Brar, Advocate for the petitioner

Mr. Shiva Khurmi, AAG, Punjab
(assisted by ASI Karamjit 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 concession of regular bail in FIR No.503 dated 10.12.2022 under Sections 363, 366-A of Indian Penal Code, 1860 (for short 'IPC') registered at Police Station City Faridkot, District Faridkot.

2. The case of the prosecution is that complainant lodged a complaint alleging that her daughter who is 16 years old went to school on 08.12.2022, however, did not return. She has come to know that Husna @ kishna son of Balwinder Singh has enticed her daughter on the pretext of marriage. FIR was registered and petitioner was arrested.

3. Learned counsel for the petitioner, *inter alia* contends that prosecutrix is staying with family members of the petitioner. The prosecutrix in her statement under Section 164 Cr.P.C. has disclosed that she had left home at her own accord and she was not enticed by the

petitioner. Both the families have entered into compromise and a petition bearing CRM-M-10803-2023 seeking quashing of FIR on the basis of compromise has been filed before this Court. The petitioner is not involved in any other similar offence. The petitioner has been wrongly implicated in the commission of alleged offence. Nothing is to be recovered from the petitioner. The petitioner is in custody since 30.01.2023 and police has already completed its investigation. The petitioner is permanent resident of District Faridkot. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Custody certificate dated 26.04.2023 is taken on record. As per custody certificate, the petitioner is in custody since 30.01.2023 and he is on bail in FIR under Sections 21A/61/85 of NDPS Act.

5. Learned State counsel submits that police report has already been filed and charges are yet to be framed. He further submits that there are 15 witnesses. The petitioner is involved in the commission of grave offence, thus, no leniency is warranted and release of petitioner would hamper the trial.

6. In the case in hand, the police have already completed its investigation and challan stands presented. The parties have entered into compromise and a petition bearing CRM-M-10803-2023 seeking quashing of FIR on the basis of compromise has been filed before this Court. The prosecutrix at present is staying with parents of the petitioner and this fact stands confirmed by learned counsel for the complainant who is appearing in CRM-M-10803-2023, which is listed today. The petitioner is in custody

since 30.01.2023. Police report under Section 173 of Cr.P.C. stands filed. The Trial Court yet has to return definite findings on the disputed issues. There are 15 prosecution witnesses and charges are yet to be framed, thus, there is abysmally low possibility of conclusion of trial in near future. Nothing is to be recovered from the petitioner. 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/Illaqa/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

27.04.2023
Mohit Kumar

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