

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 215

Criminal Miscellaneous No.M-22546 of 2023

Date of Decision: May 10, 2023

Akash Kumar @ Khani

..... PETITIONER(S)

VERSUS

State of Punjab

..... RESPONDENT(S)

...

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

...

PRESENT: - Mr. Damanjit Singh Sandhu, Advocate for the petitioner.

Mr. Harpreet Singh, Addl. AG, Punjab.

...

Tribhuvan Dahiya, J (Oral)

This is a petition for grant of regular bail to the petitioner in case FIR No.44 dated 23.02.2020, registered under Sections 363, 366-A IPC, 1860 (offences under Sections 376, 120-B IPC, 1860 and Sections 3 & 4 of POCSO Act, 2012 added later on), at Police Station Division No.7, District Ludhiana.

2. As per allegations in the FIR, the complainant's daughter, aged about thirteen years, was working as a maid with her mother. On 21.02.2020 at around 4:00 p.m., she went to her maternal aunt, and did not return. The complainant searched for her, but she could not be found. He came to know that a boy/the petitioner named Khani enticed her away intending to marry her.

3. Learned counsel for the petitioner contends that the victim's statement was recorded under Section 161 Cr.P.C. on 06.03.2020 alleging that she met co-accused Sunny Kumar one day while she had gone to bring vegetables along with her sister. He gave her his mobile

number and also did some wrong acts with her. On 21.02.2020 at around

4:00 p.m., she returned to the house of her maternal aunt, then co-accused Sunny Kumar took her to some park did some wrong acts with her. He also introduced her to the petitioner and then she went with him to Khanna. The petitioner is a DJ operator and took her to different places. Both the accused did wrongful acts with her. It is contended by the learned counsel that the allegations have been levelled by the victim, after about ten days of lodging the FIR only under pressure of her parents, and are unbelievable. The petitioner is in custody and trial is not progressing. On similar allegations, co-accused Sunny Kumar has already been admitted to bail by this Court vide order dated 10.04.2023.

4. Learned State counsel, upon instructions from ASI Deepchand, opposes the grant of bail by contending that the petitioner has been named by the victim in her statements recorded under Section 161 Cr.P.C. as well as under Section 164 Cr.P.C. The charges against the petitioner have already been framed, He, however, does not dispute that the trial is not progressing and the prosecution witnesses, eleven in number, are still to be examined. The petitioner is in custody since 29.02.2020, and there is no other case against him.

5. The submissions made by learned counsel for the parties have been considered.

6. Culpability of the petitioner is a matter of trial, which is not progressing as none of the eleven prosecution witnesses has been examined so far. The petitioner is in custody for over two years, and has no criminal antecedents. Investigation of the case is already complete. Therefore, no useful purpose will be served by confining him to custody any longer.

7. Accordingly, the petition is allowed, and the petitioner is directed to be released on regular bail subject to the satisfaction of the trial Court/Duty Magistrate concerned.

May 10, 2023
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(Tribhuvan Dahiya)
Judge

<u>Whether Speaking/ Reasoned:</u>	<u>Yes/ No</u>
<u>Whether Reportable:</u>	<u>Yes/ No</u>