

CRM-M-22573-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-22573-2023

Date of Decision: 10.05.2023

Mohit Kumar @ Mohit @ Kalu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Ritesh Pandey, Advocate for the petitioner

Mr. Shiva Khurmi, AAG, Punjab
(assisted by ASI Sushil 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.132 dated 14.08.2022 under Sections 363 & 366-A of Indian Penal Code, 1860 (for short 'IPC') (Sections 120-B & 384 of IPC added later on) registered at Police Station Mukerian, District Hoshiarpur.

2. The case of prosecution is that complainant Prem Kumar lodged a complaint alleging that on 13.08.2022, his daughter who is 16 years and 4 months old, had left for her school in the morning, however, has not come back. She has been kidnapped and seduced on the pretext of marriage. She had taken away Rs.1 Lac cash and gold jewellery weighing 7-8 tolas. The prosecutrix came back on 14.08.2022 and she disclosed that she was enticed by Mohit Kumar @ Kalu along with Raj

Kumar and Abhishek @ Abhi. Raj Kumar and Abhishek were nominated in the FIR and Section 120-B IPC was added.

3. Learned counsel for the petitioner *inter alia* contends that this Court vide order dated 25.04.2023 passed in CRM-M-3399-2023 has granted concession of regular bail to co-accused Abhishek @ Abhi and Raj Kumar. The complainant has entered into compromise with Raj Kumar and at the time of passing of order dated 25.04.2023, had made a statement that complainant has no grievance against Raj Kumar. The petitioner is in custody since 30.08.2022 and he is quite a young boy of 20 years. He is not involved in any other crime. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is permanent resident of District Hoshiarpur. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Custody certificate dated 08.05.2023 is taken on record. As per custody certificate, the petitioner is in custody since 30.08.2022 and he is not involved in any other offence.

5. Learned State Counsel submits that police report has already been filed and charges are yet to be framed. 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 petitioner in custody since 30.08.2022 and he is not involved in any other offence. The police report stands filed, and nothing is to be recovered from the petitioner. There is

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no allegation of rape against the petitioner. This Court vide order dated 25.04.2023 passed in CRM-M-3399-2023 has granted concession of regular bail to co-accused Abhishek @ Abhi and Raj Kumar. 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 petitions deserve 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

10.05.2023

Mohit Kumar

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*