

2023:PHHC:099488

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M 29515/2023
Date of decision: 02.08.2023.

Gurtej Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Satnam Preet Singh, Advocate for the petitioner.

 Mr. Pankaj Khullar, AAG Punjab

Nidhi Gupta, J.

Prayer in this first petition under Section 439 Cr.PC is for grant of regular bail to petitioner in case FIR No. 54 dated 09.6.2021 under Sections 363, 366 at PS Chamkaur Sahib, District Roopnagar and later on added Section 376 IPC and Section 6 of POCSO Act,2012 in the challan.

Above said FIR (Annexure P-1) was registered on the basis of the statement of the mother of the victim, and reads as under:-

"Statement of Gurmeet Kaur wife of Mewa Singh resident of Behrampur Bet, Police Station Shri Chamkaur Sahib presently residing as tenant in the house of Gurmeet Singh r/o Bhurrde Road Police Station Shri Chamkaur Sahib aged about 42 years mobile no. 76967-90473. Stated that I am the resident of the above address and do household work. From the last 20 years I am living separately from my husband. I have two daughters and one son. Both the daughters are with me and my son Paramveer Singh is living with my husband

Mewa Singh in village Behrampur. My elder daughter Inderpreet Kaur is married. I am living in the house of Gurmeet Singh at Bhurrde Road from the last 20 years in a rented room along with my daughter Manpreet Kaur aged about 17 years. A case of maintenance against my husband Mewa Singh is pending in the court of Roopnagar. The date of birth of my daughter Manpreet Kaur is 23.06.2004 who is studying in 12" class, Today at about 9 am I went to see a plot at Sandhuan Road and my daughter Manpreet Kaur was at home. When I came back, I did not find my daughter at home. I am sure that Gurtej Singh son of Hardev Singh resident of Barsalpur Police Station Shri Chamkaur Sahib has taken my daughter by misleading under the pretext of getting married whom we have been searching till now but couldn't find. The required action may be taken against Gurtej Singh son of Hardev Singh".

Ld. counsel for the petitioner submits that complainant is mother of the prosecutrix, and a completely false and baseless FIR has been filed against the petitioner. It is submitted that the alleged victim was 17 years 5 months old at the time of alleged incident, and the charge/allegation against the petitioner is that he had enticed the victim away on the pretext of marriage. Ld. counsel submits that petitioner and victim were in a consensual relationship and had filed a protection petition before this Court bearing CRWP No. 8725/2021 titled 'Gurtej Singh and another v State of Punjab and others'. It is stated that prosecutrix being minor at that time the said petition was dismissed as withdrawn vide order dated 14.9.2021. It is further submitted that she turned major in May 2022 and the petitioner and prosecutrix have married on 16.6.2022, as evident from the Marriage Certificate (Annexure P-5). It is further submitted that petitioner is in custody since 19.10.2022.

Ld. State counsel has produced custody certificate dated 31.7.2023 which is taken on record.

Ld. State counsel opposes the prayer for grant of regular bail and submits that in her statement under Section 161 Cr.PC dated 21.9.2022 prosecutrix has made allegations that the petitioner beats her up. It is further submitted that charges have been framed on 17.7.2023 and no witness has been examined so far.

After hearing ld. counsel for the parties, keeping in view the totality of the facts and circumstances including the custody period undergone by the petitioner; and the fact that there is no other case against the petitioner,, and that the trial will take time to conclude as no witness has been examined so far; and that no useful purpose would be served by keeping the petitioner in custody, the present petition is **allowed**. The petitioner Gurtej Singh son of Hardev Singh is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

02.08.2023.
Joshi

(Nidhi Gupta)
Judge