2023:PHHC:081910

(209)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-29918-2023
Date of Decision: 12.06.2023

RAKESH KUMAR

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Munish Puri, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, D.A.G, Punjab.

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JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.53 dated 15.04.2023 registered under Sections 363/366 IPC (Sections 376, 120-B IPC, Section 6 POCSO Act added later) at Police Station Division No.2, District Pathankot.

2. The case of the prosecution is that complainant lodged a complaint alleging that his daughter was studying in 10th Class and her date of birth is 05.06.2008. His daughter went to school on 15.04.2023 but did not return home. From the school staff, he came to know that his daughter on 15.04.2023 did not come to school. His daughter had been abducted by unknown persons on the pretext of marriage. A supplementary statement of the complainant was recorded, wherein he disclosed that petitioner and other

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accused including one Arjun Singh had kidnapped his minor daughter. On the basis of supplementary statement, Section 120-B of IPC was added and petitioner was arrested.

3. The learned counsel for the petitioner inter alia contends that the petitioner is the Chacha of Arjun Singh against whom there are allegations of kidnapping and rape. The petitioner being the Chacha of the main accused has been implicated just to create pressure upon main accused and increase the gravity of offence. The petitioner has been embroiled invoking provisions of Section 120-B of IPC. He is in custody since 21.04.2023 and is not involved in any other offence. No recovery is to be effected from the petitioner. There is no allegation of conspiracy on the part of the petitioner. However, he has been mechanically implicated. The petitioner has deep roots in the society and there was no possibility of him fleeing from justice. Since Rani Devi mother of Arjun Singh had been granted the concession of bail vide order dated 01.06.2023 passed in CRM-M-27120-2023, he was entitled to the similar relief.

4. The custody certificate dated 11.06.2023 is taken on record. As per the custody certificate, the petitioner is in custody since 21.04.2023 and he is not involved in any other offence.

5. The learned State submits that investigation has already been completed and the challan would be presented shortly. Since the petitioner is involved in the commission of a grave offence, no leniency is warranted and

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the release of the petitioner would hamper the trial. He, however, concedes that Rani Devi has been granted bail.

6. I have heard the counsel for the parties.

7. Admittedly, the petitioner is in custody since 21.04.2023 and is not involved in any other offence. No recovery is to be effected from him. His nephew i.e. main accused is already in custody. The petitioner has been implicated invoking provisions of Section 120-B of IPC. His co-accused namely Rani Devi has been granted the concession of bail. The conclusion of trial would certainly take a long time and the petitioner cannot be kept in custody for an indefinite period. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of the petitioner fleeing from justice or tampering with the evidence or winning over/threatening the witnesses.

8. In view of afore-stated facts and circumstances, this Court is of the considered opinion that the present petition deserves to be allowed. Thus, the petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaqa/Duty Magistrate concerned.

9. If the petitioner or his family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this order.

10. Nothing observed hereinabove shall be construed as an expression of an opinion of this Court on the merits of the case and Trial

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Court shall proceed without being prejudiced by the observations of this Court.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

12.06.2023
JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No

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