

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 216

Criminal Miscellaneous No.M-33431 of 2022

Date of Decision: *February 20, 2023*

Sachin Kumar

..... PETITIONER(S)

VERSUS

State of Punjab

..... RESPONDENT(S)

...

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

...

PRESENT: - Mr. Rajiv Joshi, Advocate for the petitioner.

Mr. Jashandeep Singh, AAG, Punjab.

. . .

Tribhuvan Dahiya, J (Oral)

This is a petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.238 dated 23.12.2021, under Section 342 IPC, registered at Police Station Basti Bawa Khel, District Jalandhar (Sections 365, 368, 120-B IPC, 372, 376 & 511 IPC and Sections 4 & 18 of POCSO Act, 2012 added later on).

2. Learned counsel for the petitioner contends that the petitioner was not named in the FIR; the allegations therein are only against his brother/main accused Deepak Kumar, who allegedly took away the complainant's daughter forcibly on 21.12.2021. Victim was recovered after two days, and then her statement dated 23.12.2021 under Section 161 Cr.P.C (Annexure P-2) was recorded. In the statement also, she did not level any allegation against the petitioner; she only stated that the main accused Deepak Kumar took her away and locked her in a room somewhere in Jalandhar but did not commit any wrong act with her, nor gave any beatings. A month thereafter, on 28.01.2022, victim's statement under Section 164 Cr.P.C. was recorded, where for first time the petitioner was named, being brother of the main accused, by stating that

both the brothers took the victim away to take revenge upon her father/complainant. The brothers statedly tried to do something wrong with her, but their wife prevented them from doing so. It is further submitted by learned counsel for the petitioner that the main accused Deepak Kumar has already been released on default bail by the trial Court vide order dated 04.07.2022. Besides, two of the prosecution witnesses, the complainant and one eye witness, have already been examined, and have not supported the prosecution. The petitioner is in custody since 21.05.2022.

3. Learned State counsel, on instructions from ASI Chand Singh, does not dispute the submissions made by learned counsel for the petitioner. He, however, opposes grant of bail on the ground that trial is going on, and the remaining eleven witnesses will soon be examined.

4. Keeping in view the aforesaid facts, it is apparent that trial of the case is not going to conclude in near future as eleven prosecution witnesses still remains to be examined. Two material witnesses already stand examined, and the main accused is also on bail since July 2022. Therefore, no purpose will be served by confining the petitioner to custody any longer.

5. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail on furnishing of requisite bonds/sureties to the satisfaction of trial Court/Duty Magistrate concerned.

(Tribhuvan Dahiya)
Judge

February 20, 2023
Payal

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No