

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

218

CRM-M-35795-2022

Date of Decision: 10.02.2023

Sukhdeep Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Parminder Singh Sekhon, Advocate for the petitioner

Ms. Dimple Jain, AAG, Haryana

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Section 439 of Code of Criminal Procedure, 1973 is seeking regular bail in FIR No.203 dated 15.08.2021 under Sections 363, 366-A, 376(2)(N), 465, 466, 467, 471, 472, 476, 474, 193, 197 & 120-B of Indian Penal Code, 1860 and Section 6 of Protection of Children from Sexual Offences Act, 2012 registered at Police Station Lehra, District Sangrur.

2. Reply by way of affidavit of Pushpinder Singh, Deputy Superintendent of Police, Sub-Division, Lehra, District Sangrur filed by respondent-State is taken on record. Registry is directed to tag at appropriate place.

3. The case of the prosecution is that Sukhwinder Singh lodged complaint with the police alleging that he has two children i.e. one son namely, Vikramjeet Singh and a daughter who is aged about 17 years.

On 13.08.2021, he and his wife were out of home and his daughter was

alone at home. When they came back home they found that their daughter was missing. Later on, they came to know that his brother's daughter was also not present at home. He has strong suspicion that Sukhdeep Singh alias Mannu and one unknown person had allured and abducted their daughters on the pretext of marriage.

4. Learned counsel for the petitioner, *inter alia* contends that this Court vide order dated 05.07.2022 passed in CRM-M-13914-2022 (Annexure P-7) has granted bail to co-accused Kuldeep Singh. The petitioner and prosecutrix had filed CRWP-9728-2021 before this Court seeking protection of life and liberty. The petition was disposed of vide order dated 01.11.2021 with a direction to Senior Superintendent of Police, Sangrur to consider representation of the petitioners. The prosecutrix and complainant stand examined and they have not supported the case of prosecution. The petitioner is in custody since 14.01.2022 and he is not involved in any other case. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner has deep roots in the society. There is no possibility of flee from justice.

5. Custody Certificate dated 08.02.2023 is taken on record. Registry is directed to tag the same at appropriate place.

6. As per Custody Certificate, the petitioner has already suffered incarceration of 1 year and 25 days and he is not involved in any other offence.

7. Learned State Counsel submits that police report has already been filed and charges stand framed. She further submits that out of 29 witnesses, 2 witness i.e. prosecutrix and complainant have already been examined. The petitioner is involved in the commission of grave offence, thus, no leniency is warranted and release of petitioner would hamper the trial.

8. In the case in hand, the prosecutrix and petitioner had filed writ petition before this Court seeking protection of life and liberty. In the said petition, the prosecutrix had declared her age 19 years. The co-accused stands released on regular bail by this Court. The prosecutrix and complainant have turned hostile and as per instructions of learned State counsel, the prosecutrix has solemnized marriage somewhere else. The petitioner is in custody since 14.01.2022. There are 29 prosecution witnesses and till date, only 2 witnesses have been examined, thus, there is abysmally low possibility of conclusion of trial in near future. The material witness i.e. prosecutrix and complainant stand examined. 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 tempering the evidences or winning over/threatening the witnesses.

9. In view of the aforestated facts and circumstances, this Court is of the considered opinion that present petition deserves to 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.

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

10.02.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>