

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

208

Criminal Misc. No. M-36090 of 2023

Date of decision :-05.10.2023

Iqbal Singh @ Gaggi

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. J.K. Singla, Advocate
for the petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab
assisted by HC Surinder Kumar.

NIDHI GUPTA J. (Oral)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner during pendency of the trial in case FIR No.80 dated 16.5.2023, under Sections 363 and 366 IPC, registered at Police Station Bhikhi, District Mansa.

The present FIR was registered on the statement of the father of the victim, which reads as under :-

“Statement of Ranjit Singh Son of Jagga Singh Son of Wariyam Singh, resident of Atla Khurd, aged about 45 years, M. No.98144-05989 stated that I am resident of above mentioned address and working as a labourer. I have two children i.e. elder girl Husanpreet Kaur whose date of birth is 15.08.2009 aged about 13 years and younger boy Gurwinder Singh aged about 6 years. My daughter

Husanpreet Kaur who is studying in 10th Class in Government School village Atla Kalan. My wife Charanjit Kaur alongwith son Gurwinder Singh went to her parent's village Gehle for two days for meeting. I and my daughter Husanpreet Kaur were alone at house. Yesterday on 14.05.2023, as per my daily routine, at about 4:00 in morning I went to my work at Brick Kiln and my daughter Husanpreet Kaur was alone in house and at about 8:00 in morning when I was came back in house for eating food then my daughter Husanpreet Kaur was not present in house. To whom, I searched nearby in our neighbours but my daughter was not met me. Now, I came to know that my daughter Husanpreet Kaur enticed away by boy of our village namely Iqbal Singh @ Gagu Son of Raja Singh Son of Kartar Singh resident of Atla Khurd under the pretext of marriage. We are searching our daughter on our level till now but no clue has been found till now. Now, I alongwith my nephew Resham Singh Son of Ram Singh, resident of Atla Khurd was come present in Police Station for giving information with regard to this. You met, statement has been recorded with you. Legal action be taken against Iqbal Singh @ Gagu Son of Raja Singh Son of Kartar Singh, resident of Atla Khurd. Statement has been recorded with you, heard, correct.”

Learned counsel for the petitioner *inter alia* submits that the FIR in the present case was registered on the statement of father of the victim. It is submitted that the age of the victim at the time of incident was 13 years. It is stated that the allegations made in the FIR are utterly false and fabricated. Learned counsel submits that the

victim in her statement, recorded under Sections 161 and 164 Cr.P.C., has stated that the petitioner had not allured her on the pretext of marriage. It is further submitted that the victim as PW1 and the complainant as PW2, in their testimonies, have turned hostile. Learned counsel submits that the incident is stated to be of 14.5.2023, however, the FIR was registered two days thereafter i.e. on 16.5.2023 without any explanation for the said delay. Learned counsel for the petitioner also submits that medical examination of the victim has not been conducted.

Learned State counsel has filed the custody certificate dated 04.10.2023 in Court today. The same is taken on record. Copy thereof is supplied to the counsel opposite. As per the said custody certificate, the petitioner has been in custody as undertrial for a period of 04 months and 20 days.

I have heard learned counsel for the parties and gone through the case file carefully.

Without commenting on the merits of the case, however, keeping in view the totality of facts and circumstances of the case, including the fact that the trial of the case is likely to consume considerable time as only two material prosecution witnesses i.e. complainant and the victim have been examined so far; and the custodial period of the petitioner; and the fact that there is no other case pending against him, his further custody may not be justified. Therefore, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner-Iqbal Singh @ Gaggi be released on regular bail subject to his furnishing requisite bail

bonds/surety bonds to the satisfaction of the trial Court/Duty
Magistrate, concerned.

The petition is allowed.

October 05, 2023
Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes / No
Whether Reportable Yes / No