

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

106+215

Criminal Misc. No.36441 of 2023 in/and
Criminal Misc. No. M-37370 of 2023
Date of decision :-31.08.2023

Gurpreet Singh @ Gopi

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Davinder Lubana, Advocate
for the applicant-petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab
Assisted by ASI Palwinder Singh.

NIDHI GUPTA J. (Oral)

CRM-36441-2023

Prayer in this application is for amendment in the head-note and prayer clause of the petition.

Learned counsel for the applicant-petitioner submits that in the head-note, para No.2 and in prayer clause of the main petition, inadvertently, Section 633 IPC has been mentioned in place of Section 366 IPC.

In view of the aforementioned, the application is allowed subject to all just exceptions and in the head-note, para No.2 and in prayer clause of the main petition, Section 633 IPC be read as Section

366 IPC. Registry is directed to carry out necessary correction at appropriate places in the petition.

CRM-M-37370-2023

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.14 dated 10.04.2022, under Sections 363, 366 and 376 IPC and Section 6 of the POCSO Act, registered at Police Station Harike, District Tarn Taran, Punjab.

The present case was registered at the instance of complainant Baljit Singh s/o Charan Singh, who is father of the victim. In his statement, recorded with the police on 10.4.2022, he stated that he is an agriculturist. He is having a daughter, namely P Kaur and her date of birth is 10.06.2007. It is stated that on 01.4.2022, after taking meals, the family of the complainant went to sleep. In the midnight of 01/02.04.2022 at about 1 AM, his wife told him that their daughter was not in the bed. They kept on searching for their daughter but did not find her. On 05.4.2022, he got registered a missing report at Police Station Harike. He stated that he was suspicious that his daughter had been enticed away by Gurpreet Singh @ Gopi (petitioner herein) s/o Resham Singh on the pretext of marrying her and in this act, Rohit s/o Rajinder Kumar r/o near Wadda Mandir and Parminder Singh @ Bhinda had helped him. On the basis of this statement, FIR was registered against the accused.

Learned counsel for the petitioner *inter alia* submits that the petitioner has been in custody since 15.4.2022 i.e. for a period of more than 01 year and 04 months. It is stated that the age of the

victim is disputed because as per her school record her date of birth is 10.06.2002, whereas as per her Aadhar Card her date of birth is shown to be 10.06.2007. Further, the victim in her statement, recorded under Section 164 Cr.P.C., on 12.4.2022 (Annexure P-4) had categorically stated that she knew the petitioner for the last two years and is in a relationship with him; on the date of incident i.e. 01.4.2022 she had gone to Amritsar with the petitioner with her free will and consent and there they stayed in a Hotel for 10-11 days; she stated that she developed physical relations with the petitioner with her consent and further did not want any legal action against the petitioner.

Learned State counsel does not dispute the abovesaid facts on record. He refers to Annexure P-5 and submits that on 11.4.2022, the victim refused to get herself medically examined. Learned State counsel submits that the custody certificate of the petitioner is not available today.

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

Without commenting on the merits of the matter, however, keeping in view the totality of the facts and circumstances of the case, including the fact that the trial of the case is likely to consume considerable time, and keeping in view the custodial period of the petitioner, 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-Gurpreet Singh @ Gopi s/o Resham Singh 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.

August 31, 2023
Vijay Asija

(NIDHI GUPTA)
JUDGE

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