

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M 37957/2023

Date of decision: 09.08.2023.

Satpal

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sumeet Singh Brar, Advocate for the petitioner.

Mr. Arjun Lakhanpal, Addl. AG Haryana.

Nidhi Gupta, J.

Prayer in this first petition under Section 439 Cr. P.C is for grant of Regular Bail to the petitioner in FIR No. 421 dated 02.10.2021 under Sections 363, 366-A, 376, 376-F of IPC, Section 6 of POCSO Act, and Sections 9 & 11 Child Marriage Restraint Act, 1929 registered at PS Rania, District Sirsa.

FIR (Annexure P-1), recorded on the basis of statement of father of the victim, reads as under:-

“To SHO Sahib PS Rania. Sir, it is a request that I am Budh Ram s/o Het Ram caste Babri r/o village Daryiwali, Tehsil Rania, District Sirsa. My daughter namely Poonam having Aadhaar Card Number 910000617165, Date of Birth 18.07.2005, On 02.10.2021 at about 6AM, When I woke up ck, my daughter namely Poonam was not on her cot. On

which we started search for our daughter Poonam, so now I have come to know that Satpal son Brijlal mobile number 89494 19639, 9772790053 resident of 30 MM Chak Pakka Maharan District Hanumangarh has enticed my daughter and take away on the pretext of marriage. Satpal use to come to our house. He has take away my daughter in the night of 2-10-2021. The height of my daughter is about 5 feet, complexion white, thin body, black eyes, round face and wearing pink color t shirt, blue jeans and chappal. My daughter use to speak in Bagdi or Hindi. It is requested that action should be taken to find my daughter. I shall be thankful to you”.

Ld. counsel for the petitioner submits that the petitioner is innocent, has not committed any offence, and has been falsely implicated in the matter. It is stated that the prosecutrix is now married and also has a child from her marriage and is living happily in her matrimonial home. Learned counsel submits that it was consensual relationship between the petitioner and the victim. It is further submitted that victim in her statement under Section 164 Cr.PC, as well as in her deposition as PW3, has not supported the case of the prosecution; and it is clear from the statements of the prosecutrix that she had gone with the petitioner of her own free will. In this regard, Ld. counsel refers to the cross-examination of victim/PW3, which reads as under:-

“.....I know accused Satpal for the last two and a half years. We were close friends. We were on talking terms with accused Satpal and used to talk with each other on mobile phone. We both were fall in love and wants to marry each

other. I left my house with accused Satpal with my free will on a motor-cycle. Accused took me to the house of his uncle at Village Admala (Punjab) and remained there for about three/four days. At that time, I was happy with the company of accused Satpal. I lived with accused for about three months and we had made physical relation with my consent on several occasions. Police met me at Hanumangarh (Rajasthan). My statement was recorded by the police in Police Station, Rania on 10.01.2022....”.

Custody certificate dated 8.8.2023 produced by the Id. State counsel is taken on record as per which the petitioner has undergone total custody as under trial for 1 year 6 months and 25 days.

Ld. State counsel submits that out of 26 witnesses 4 have been examined although material witnesses including victim have been examined.

After hearing Id. counsel for the parties, without commenting on the merits of the case and keeping in view the fact that petitioner has undergone total custody as undertrial for 1 year 6 months and 25 days; prosecution evidence is yet to be concluded and as such conclusion of trial will take some time; and that no useful purpose would be served by keeping the petitioner in custody, the present petition is **allowed**. The petitioner Satpal son of Lal Chand is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

09.08.2023.
Joshi

(Nidhi Gupta)
Judge