

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

205

CRM-M-39555-2023 (O&M)
Date of decision: 12.12.2023

Ram Parvesh**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Vinay Kumar, Advocate
for the petitioner.

Ms. Himani Arora, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 132 dated 15.08.2022, registered under Sections 363, 366-A, 34 of the IPC and Section 4 of the POCSO Act, 2012 at Police Station Sadar Patti, District Tarn Taran.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the statement of the complainant 'S' (*name withheld*) alleging therein that she is a labourer and had three children. Her daughter 'P' (*name withheld*) was 16 ½ years and on 08.08.2022, at about 8 AM, her daughter 'P' had left the house without any intimation to her or any of the family members. On that day, the complainant had gone to village Bagupur. Her daughter had told family members that she was going to meet her but she did not meet her. She tried to trace her daughter but could not do so. She came to know that her daughter had been enticed

Neutral Citation No. 2023:PHHC: 158925

away by Kundan Kumar Singh and petitioner Parvesh Kumar on the pretext of marrying her. Her daughter was a minor. The FIR was registered and the investigation proceedings were initiated. The daughter of the complainant was recovered on 11.06.2023. She was taken to Civil Hospital, Patti for her medical examination, but she refused to get her medical examination conducted and her statement under section 164 Cr.P.C was recorded. The petitioner is in custody since 13.06.2023. He had moved an application for grant of regular bail before the trial Court but the same was dismissed, vide order dated 29.07.2023.

3. The present petition has been filed by the petitioner on the ground and his counsel has argued that he has been falsely implicated in this case. The offence punishable under Section 4 of the POCSO Act has been deleted during investigation. There is unexplained delay of seven days in reporting the matter to the police. The victim did not get her medico-legal examination conducted. A compromise has been effected between the parties and the mother of the victim has sworn an affidavit (Annexure P-2) in favour of the petitioner. Challan has been presented. The conclusion of trial is likely to take some time. The victim, in her statement recorded under Section 164 Cr.P.C., has not implicated the petitioner. Neither the victim nor her mother, who is complainant, have implicate the petitioner in the subject crime. The petitioner is in judicial custody since 13.06.2023. No useful purpose would be served by keeping him in custody anymore. Hence, it is prayed that the present petition deserves to be allowed.

4. *Per contra*, learned State counsel has resisted the petition in terms of the status report. It is argued by her that there are serious allegations

Neutral Citation No. 2023:PHHC: 158925

against the petitioner. The consent of the victim, who was a minor, was of no consequence. There is nothing on record to show that there would be any undue delay in conclusion of trial. Therefore, he has argued that the present petition is liable to be dismissed.

5. I have heard learned counsel for the parties and have also gone through the material placed on record very carefully.

6. The petitioner is alleged to have induced the victim on the pretext of performing marriage with her. He is in custody since 13.06.2023. Investigation is complete. The trial has commenced. Learned counsel for the petitioner has placed on record copies of the statements of the victim as well as her mother, who is complainant, as recorded during the course of trial and a perusal of the same reveals that none of them have implicated the petitioner in the commission of the offences, for which, he has been chargesheeted and rather, both of them are shown to have stated that they did not know the petitioner and have seen him for the first time in the Court through video conferencing and no offence whatsoever had been committed by him. Keeping in view the period spent by the petitioner in custody, the fact that the material witnesses have not implicated him in the commission of the subject crime and the attendance facts and circumstances of the case, I am of the considered opinion that no useful purpose would be served by keeping him in custody anymore.

7. Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

Neutral Citation No. 2023:PHHC: 158925

8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

12.12.2023

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No