

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

216

CRM-M-41980-2022

Date of Decision: 24.05.2023

Vijay Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Rakesh Gupta, Advocate for the petitioner

Ms. Guramrit Kaur, DAG, Punjab
(assisted by ASI Inderjeet Singh)

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant petition under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking concession of regular bail in FIR No.108 dated 20.06.2022 under Sections 346 & 366 of Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Pasyana, District Patiala.

2. The case of the prosecution is that brother of prosecutrix lodged a complaint alleging that his sister (victim) got married with Mukhtiar Singh about 15 years back. She has 3 children. His sister on 18.06.2022 at 06:45 AM went away from house along with her daughters without telling anyone. He apprehends that some persons have allured his sister and taken away her along with her daughters. During investigation, victim along with her daughters were recovered from One Stop Center 'Sakhi'. The statement of victim was recorded under Section

161 Cr.P.C. wherein she disclosed that Vijay Singh had taken her away on the pretext of marriage.

3. Learned counsel for the petitioner, *inter alia* contends that victim stands examined. From the testimony of the victim as well as her statement made before One Stop Center 'Sakhi', it is evident that she had made allegations of merciless beatings against her husband. She has accepted that she was in love with the petitioner and she had left her home with Vijay Singh at her own accord. The petitioner is in custody since 23.06.2022 and he is not involved in any other offence. The petitioner has been wrongly implicated in the commission of alleged offence.

4. Custody certificate dated 22.05.2023 is taken on record. As per custody certificate, the petitioner is in custody since 23.06.2022 and he is not involved in any other offence.

5. Learned State counsel submits that police report has already been filed and charges stand framed. She further submits that out of 16 witnesses, 4 have already been examined which includes victim. The petitioner is involved in the commission of grave offence, thus, no leniency is warranted and release of petitioner would hamper the trial.

6. The petitioner is in custody since 23.06.2022 and he is not involved in any other offence. Police report under Section 173 of Cr.P.C. stands filed, charges stand framed. From different statements, it *prima facie* appears that victim on account of harassment by her husband, at her

own accord had left her home with Vijay Singh. The Trial Court yet has to return definite findings on the disputed issues. There are 16 prosecution witnesses and till date only 4 have been examined, thus, there is abysmally low possibility of conclusion of trial in near future. The material witness i.e. victim stands examined, thus, there is no possibility of winning over or pressurizing her. 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 tampering the evidences or winning over/threatening the witnesses.

7. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to be 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.

8. If the petitioner or his family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted by this order.

9. 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

24.05.2023
Mohit Kumar

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