

CRM-21349-2023 in/and
CRM-M-42397-2022

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2023:PHHC:068304

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-21349-2023 in/and
CRM-M-42397-2022

Date of Decision: 11.05.2023

Faizan Ahmed

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Sarfraj Hussain, Advocate for the petitioner.

Sh. Mohinder Singh, ACP, Old Faridabad in person with
Mr. Munish Sharma, DAG, Haryana.

ASHOK KUMAR VERMA, J. (ORAL)

CRM-21349-2023

1. Application is allowed as prayed for.
2. Copies of statement of complainant-Irfan and order dated 17.04.2023 as Annexures A-1 and A-2, respectively, are taken on record, subject to all just exceptions.

CRM-M-42397-2022

1. Sh. Mohinder Singh, Assistant Commissioner of Police, Old Faridabad, District Faridabad, is present in person and tenders his un-conditional apology for the alleged lapse of contradictory facts in the

affidavits filed by him. The same is accepted and he is discharged for today.

2. The petitioner has filed the present second petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No. 60 dated 12.03.2021 registered under Sections 363, 370 and 120-B IPC at Police Station Sector-17, Faridabad, District Faridabad.

3. Briefly, the aforesaid FIR was registered on the complaint dated 12.03.2021, moved by complainant-Irfan, on the allegations that he is having two children i.e. one daughter and one son, namely, Aashya aged around 7 years and Ishan aged around 2½ years, respectively. On 11.03.2021, in the evening time, his son-Ishan was playing in the street and was found missing. The complainant submitted that he is having doubt that his neighbour, namely, Ahmed had kidnapped his son. Upon this, formal FIR was registered against the accused persons. During investigation, accused were arrested and statement of witnesses under Section 161 Cr.P.C were also recorded. Kidnapped child-Ishan was recovered from co-accused-Ahmed. During investigation, one motorcycle make Splender was recovered from the possession co-accused-Ahmend. The CCTV footage was also got recovered. After completion of investigation, challan was filed against the accused persons.

4. Learned counsel, *inter alia*, contends that petitioner has been falsely implicated in the present case on the basis of disclosure

statement of co-accused-Ahmed, which is a very weak type of evidence. The alleged recovery of kidnapped minor child was effected from co-accused-Ahmed. The only allegation against the petitioner is that he was instrumental in kidnapping of minor child. Complainant-Irfan, while appearing in the witness-box as PW-1, had not named the petitioner in the alleged kidnapping of his son. He further contends that out of total 21 prosecution witnesses, only 02 have been examined, so far. Petitioner is in custody since 14.03.2021. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Co-accused of the petitioner, namely, Sahina Bano @ Sayna, had already been enlarged on bail by the trial Court vide order dated 17.04.2023 (Annexure A-1). Thus, it is prayed that treating the case of the petitioner on the same parity as that of his co-accused, he may also be released on regular bail.

5. On the other hand learned State counsel has vehemently opposed the present petition on the ground that the petitioner along with co-accused has actively participated in the commission of alleged crime.

6. Keeping in view the facts and circumstances of the case, nature of accusation against the petitioner, custody period of the petitioner and the fact that co-accused of the petitioner, namely, Sahina Bano @ Sayna, had already been enlarged on bail by the trial Court vide order dated 17.04.2023 (Annexure A-1), but without commenting on merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

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7. Therefore, the petition is allowed and petitioner-Faizan Ahmed, is ordered to be released on regular bail on his furnishing personal/02 surety bonds, out of which 01 should be a local surety to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

11.05.2023
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No