

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

212

CRM-M-43451-2023

Date of decision: 06.09.2023

Ashish Kumar @ Ashu

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

PRESENT: Mr. Amit Kaith, Advocate for the petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab.

NIDHI GUPTA, J. (ORAL)

1. Prayer in this first petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No. 169 dated 27.08.2022 registered under Sections 363 and 366-A IPC (Section 376 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 were added later on) at Police Station Sadar, Ludhiana.
2. The aforesaid FIR was registered on the statement of mother of the victim and the same reads as follows:

“.... I am resident of the above address and doing hard labour in a private factory at village Bulara. I was married 17 years ago to Paramjit Singh son of Harbans Singh resident of village Harimpur police Station Nakodar district Jalandhar who works in a private sector, I have three daughters. Out of which the eldest daughter Manjit Kaur Harman @ Hamoon whose date of birth is 27-08-2006 was studying in 8th standard at Government Senior Secondary

School (Girls) Village Gill Ludhiana. My daughter Majit Kaur @ Harman @ Hamoon is weak in studies. She has not gone to school since 06 months. My daughter Manjit Kaur @ Harman @ Hamu left home on the said date 26.08.2022 at 06:30 pm without telling anything & she has not returned till now. For which I and my family members have searched so far on our own, among our relatives and in other possible places, but nowhere. After a lot of searching, now I have come to know that my daughter Manjit Kaur was married to a boy named Harman @ Hamu, Ashish Kumar @ Ashish son of Bibhuti Prasahd @ Raju resident of village Rampur police station Tarfganj district Gonda Uttar Pradesh. He has been tricked her and taken somewhere.”

3. Learned counsel for the petitioner, *inter alia*, submits that at the time of alleged incident, the victim was 16 years old; whereas the petitioner was 19 years old. Complainant in the present is the mother of the victim. It is submitted that on the date of incident i.e. 26.08.2022, it has been alleged by the complainant that the victim went missing. Both the victim and the complainant have turned hostile. It is further submitted that petitioner is a young boy and has been in custody since 29.08.2022. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that petitioner may be released on regular bail, in view of the fact that the victim and the complainant both have turned hostile.

4. No other argument is raised on behalf of the petitioner.

5. *Per Contra*, learned counsel for the State has filed custody certificate dated 04.09.2023, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 01 year and

04 days. On instructions from ASI Satwinder Singh, learned counsel for the State submits that out of total 16 prosecution witnesses, 02 have been examined by the trial Court, so far. He fairly admits the fact that both the victim and the complainant have turned hostile. However, learned State counsel submits that the DNA of the semen of the petitioner has been matched with the sample of the accused.

6. I have heard learned counsel for the parties.

7. Without commenting on the merits of the matter, however keeping in view the totality of facts and circumstances of the case, I find no ground is made out at this stage to interfere with the impugned orders dated 25.04.2023 and 25.05.2023 (Annexures P-2 and P-3, respectively) vide which applications of the petitioner under Section 439 Cr.P.C., seeking regular bail were dismissed twice by the learned Additional Sessions Judge/FTSC under POCSO Act/Ludhiana. Accordingly, the present petition is **dismissed**.

06.09.2023
rishu

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No