

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 202

Criminal Miscellaneous No.M-50580 of 2021(O&M)

Date of Decision: *February 17, 2023*

Harish Kumar

..... PETITIONER(S)

VERSUS

State of Punjab

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

. . .

PRESENT: - Mr. Manoj Kumar Sharma, Advocate for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

. . .

Tribhuvan Dahiya, J (Oral)

CRM-33124-2022

Application is allowed and offences under Section 376 IPC and Section 4 of POCSO Act, 2012, are ordered to be added in the body of the petition.

Main case

2. This is a petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.15 dated 31.01.2021, under Sections 363 & 366-A IPC (Section 376 IPC and Section 4 of POCSO Act, 2012 added later on), registered at Police Station Phase-11, S.A.S. Nagar, District Mohali.

3. The allegations against the petitioner are, he kidnapped the complainant's minor daughter from his lawful custody on the pretext of getting married to her. The offences under Section 376 and Section 4 of

POCSO Act, 2012 were added subsequently, on receipt of DNA report.

4. Learned counsel for the petitioner, however, contends that the trial is not progressing, and none of the witness has been examined so far, though charges were framed on 09.03.2022. He further submitted that the complainant as well as the victim were summoned through Superintendent of Police, Mohali, still did not testify before the trial Court. The petitioner is in custody since 01.02.2021.

5. Learned State counsel, on instructions from ASI Jasvir Singh, does not dispute the facts submitted by learned counsel for the petitioner. He, however, opposes the grant of bail on the ground that offences are serious and DNA report is positive.

6. Culpability of the petitioner is a matter of trial, which is not progressing. Investigation of the case is already over, and no purpose will be served by confining the petitioner in custody during trial.

7. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail on furnishing of requisite bonds/sureties to the satisfaction of trial Court/Duty Magistrate concerned.

(Tribhuvan Dahiya)
Judge

February 17, 2023
payal

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No