

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

205

Criminal Misc. No. M-48871 of 2023

Date of decision :-03.10.2023

Pawan Singh @ Jatinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Kamal Narula, Advocate
for the petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab.

NIDHI GUPTA J. (Oral)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner during pendency of the trial in case FIR No.199 dated 05.09.2021 under Sections 363 and 366-A IPC (offence under Section 376 IPC; Sections 4 and 6 of POCSO Act, 2012 added later on), registered at Police Station City-I, Abohar, District Fazilka.

The brief facts, recorded by the trial Court in its order dated 19.12.2022, reads as under :-

“The present FIR was registered at the instance of father of victim i.e. complainant on the allegations that he is a truck driver. He further stated that he was having three children and the eldest one was daughter i.e. victim (name withheld) aged 17 years. He further stated that the son of his paternal

uncle i.e. Darshan Singh was also residing in his locality i.e. Ajeet Nagar, Abohar. He further stated that on 02.09.2021, he had gone to work and his family members after taking dinner went to sleep. However, on 03.09.2021 in the morning, the wife and children of complainant noticed that minor daughter of the complainant was not present at their house. Thereafter, his wife telephonically called the complainant and informed about the same. It was further stated that the complainant returned to his house on 03.09.2021 and thereafter, they started searching for the victim in the vicinity and in the house of relatives and friends but could not trace her. He further stated that he was having suspicion that the applicant Pawan Singh son of Darshan Singh had enticed his minor daughter and had taken her away from his house on the pretext of marrying her. On the basis of the above said statement, the present FIR was registered under section 363, 366-A of IPC. Thereafter, investigation was started. Accused was arrested and the minor daughter of the complainant was recovered. Thereafter, her statement under section 164 of Cr.P.C. was recorded and offence under section 376 of IPC and Section 4 of POCSO Act was added.”

Learned counsel for the petitioner submits that the alleged victim in the present case is 17 years old and she is distantly related to the petitioner. He submits that on 03.09.2021 i.e. the date of incident, the petitioner and the victim both were found missing. It is submitted that the victim as PW1 in her deposition (Annexure P-2) herself admitted that she had gone with the petitioner to different

places and kept roaming. It is submitted that the allegations mentioned in the FIR are totally false.

Learned State counsel has filed the custody certificate dated 02.10.2023 in Court today. The same is taken on record. Copy thereof is supplied to the counsel opposite. As per the custody certificate, the petitioner has undergone 02 years and 23 days as undertrial. It is submitted that the petitioner was found involved in another FIR No.14 dated 01.01.2019, under Section 379-B IPC, registered at Police Station City-2, Abohar, District Fazilka but vide order dated 15.5.2023, he was acquitted in that matter. Learned State counsel submits that out of total 20 prosecution witnesses in the present FIR, only 05 witnesses have been examined so far. Learned State counsel, however, admits that the material witnesses including the victim and the complainant have been examined. Learned State counsel submits that both the complainant and the victim have supported the prosecution case in their respective depositions.

I have heard learned counsel for the parties and gone through the case file carefully.

Without commenting on the merits of the case, however, keeping in view the totality of facts and circumstances of the case, including the fact that the trial of the case is likely to consume considerable time as out of total 20 prosecution witnesses, only five witnesses have been examined so far coupled with the fact that the material witnesses i.e. the complainant and the victim have been examined; and keeping in view the custodial period of the petitioner, his further custody may not be justified. Therefore, without meaning

any expression of opinion on the merits of the case, it is ordered that the petitioner-Pawan Singh @ Jatinder Singh be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

The petition is allowed.

October 03, 2023

Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No