

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-48775-2023

Date of Decision: 04.10.2023

Talwinder Singh @ Krish

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Naveen Bawa, Advocate for the petitioner.

Mr. Sanish Girdhar, AAG, Punjab

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 58 dated 30.05.2022 (Annexure P-1) registered under Sections 363 and 366 IPC (Section 376-D IPC and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012, were added later on) at Police Station Dehlon, District Ludhiana.

The aforesaid FIR was registered on the basis of statement of father of victim which is reproduced as under:-

“Statement of Gurcharan Singh son of Surjit Singh resident of Village Khera, Police Station Dehlon, District Ludhiana age approximately 42 years, mobile no. 8437089018, that I am the resident of the above said address and I do the work of labour at village Dehleej. I have two

daughters and one son. The date of birth of my younger daughter namely Simranpreet Kaur is 03.11.2004. On dated 27.05.2022 at time approximately 7 PM, when I reached at home then saw that my younger daughter Simranpreet Kaur was not present at home. I verified that from my family members and from neighbourers but even then I could not get any clue about my daughter that where is she? Later on, I came to know that my daughter has been enticed away by kidnapping on the pretext to perform marriage by Talwinder Singh resident of Village Mini Chhapar, District Ludhiana. I did not give any application with that regard at that time. Who came back to us on dated 28.05.2022, I am producing the photocopy of the 10th certificate to you of my daughter Simranpreet Kaur. Appropriate legal action may be taken against the boy namely Talwinder Singh resident of Village Mini Chhapar, District Ludhiana.....”

Learned counsel for the petitioner, *inter alia*, submits that the date of birth of the victim in the present case is 03.11.2004 and as such, she was about 17½ years old at the time of alleged incident. It is submitted that the aforesaid FIR was registered on the basis of statement of the father of the victim as she went missing on 27.05.2022. However, it is admitted that the victim came back on 28.05.2022 and thereafter, the present FIR was registered after delay of almost 03 days i.e. on 30.05.2022. It is further submitted that initially, the FIR was registered only under Sections 363 and 366 IPC, however, subsequently, on the

basis of supplementary statement of the father of the victim dated 30.05.2022 (Annexure P-2), the allegations of rape surfaced for the first time in the present case. It is also submitted that even as per the FSL report, no human semen was detected on the exhibits submitted by the victim. Learned counsel for the petitioner further submits that vide order dated 01.09.2023 (Annexure P-4), co-accused of the petitioner, namely, Gurwinder Singh @ Guri @ Bachhi, has been granted the concession of regular bail by this Court. The petitioner has been in custody since 30.05.2022. 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.

Per Contra, learned counsel for the State vehemently opposes the prayer for grant of regular bail to the petitioner and submits that the victim in her statements recorded under Sections 161 and 164 Cr.P.C., has fully supported the prosecution case. He further submits that out of total 19 prosecution witnesses, 01 witness i.e. the victim has been examined so far. However, learned counsel for the State is unable to confirm as to whether the victim in her deposition has supported the case of the prosecution or not. Learned counsel for the State submits that custody certificate of the petitioner is not available today, however, he admits the fact that the petitioner is in custody since 30.05.2022.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case including the fact that the petitioner is in custody since 30.05.2022, and the fact that out of total 19

prosecution witness, only 01 witness has been examined so far, therefore, conclusion of trial will take sufficient time and no useful purpose would be served by further detention of the petitioner, the present petition is **allowed.**

The petitioner-Talwinder Singh @ Krish S/o Balwinder Singh, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

04.10.2023
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No