

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

104+207

CRM-M-51021-2022 (O&M)

Date of decision: 19.01.2023

Vishal Kumar @ Bobby

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Balbir Kumar Saini, Advocate
for the petitioner.

Mr. Sanish Girdhar, AAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-50412-2022

Allowed as prayed for and Annexures P-5 to P-8 are taken
on record subject to all just exceptions.

CRM-M-51021-2022

This is the first petition filed under Section 439 of the
Code of Criminal Procedure, 1973 for grant of regular bail to the
petitioner in case FIR No.0281 dated 04.12.2021 lodged under Sections
363-A, 370 and 120-B of the Indian Penal Code, 1860 registered at
Police Station City South, District Moga.

Learned counsel for the petitioner submits that a totally
false and fabricated case has been planted upon the petitioner at the
instance of the complainant for allegedly abducting his 08 month old
son from the possession of the complainant's mother, who thereafter
was sold to co-accused. Learned counsel submits that co-accused
Jalanda Singh has since been extended the concession of bail vide order
dated 19.01.2022. A prayer has, therefore, been made to extend the

concession of bail to the petitioner as he has been in custody for more than a year having been arrested on 09.12.2021 and also in view of the fact that two material witnesses i.e. the complainant and the complainant's mother had been examined before the Trial Court. Learned counsel submits that in the aforementioned circumstances, further incarceration of the petitioner would serve no useful purpose.

Per contra, learned State counsel on instructions while opposing the prayer and submission of the counsel opposite, on instructions has submitted that the petitioner along with co-accused abducted the minor child of the complainant and thereafter sold him to the co-accused. He further submits that no doubt both the material witnesses i.e. the complainant and his mother have been examined, however, 12 prosecution witnesses out of the 17 are yet to be examined and in case the petitioner is released on bail, he may try to influence the other witnesses to depose in his favour.

On a pointed query put to the learned State counsel as to whether the petitioner was involved in any other criminal case of similar nature, he on instructions has replied in the negative.

I have heard learned counsel and perused the relevant material on record.

The petitioner has been in custody since 09.12.2021 and as also conceded by the learned State counsel both the material witnesses i.e. the complainant and his mother stand examined. The trial is unlikely to conclude in the near future as 12 out of the 17 prosecution witnesses remain to be examined. In addition, as also not disputed by the learned State counsel, the petitioner is not involved in any other

criminal case of similar nature, this Court deems it fit to extend the concession of bail to the petitioner.

In view of the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

19.01.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No