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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-48969-2023

Date of decision: 19th December, 2023

Teg Ali

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Manuj Nagrath, Advocate for the petitioner.
Mr. Kunwarbir Singh, AAG, Punjab.

MANISHA BATRA, J:-

The present petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
45	26.04.2023	Khilchian, District Amritsar	363, 366, 506, 376-D and 120-B of Indian Penal Code, 1860 (for short ‘the Act’)

2. The aforementioned FIR was registered on the basis of statement recorded by the complainant ‘G’ (name withheld) alleging therein that the victim ‘S’ (name withheld) aged about seventeen years was his cousin sister who had come to visit them for celebrating Eid festival. About fifteen days back, his relatives Gunny and his father Kasham @ Kacha had been invited by him during Rozas to his residential place. At that time, father of the accused Gunny had offered a proposal of marriage of his son Gunny

with his sister BAwi, but he declined due to being of same *gotra*. On 25.04.2023, his cousin sister i.e. victim, his real sister and he himself were present at his dera as remaining members of his family had gone elsewhere. They had slept in the night. At about 2-2:30 AM, one white color Innova car came to their dera. On hearing noises, complainant woke up and saw the accused Gunny and his brother Barsu alighting from the car along with four more persons. While extending threat to the complainant, they abducted his sister and cousin sister in their car with an intention to solemnize marriage with them. He intimated about the incident to his uncle and then Panchayat were also called but nothing fruitful came out. Therefore, he prayed for taking action against the culprits. Initially, case under Sections 363, 366 and 506 of the Act was registered. Investigation proceedings were initiated.

3. As per the further allegations, on 23.05.2023, the complainant came to the police station with the victim. Her statement under Section 164 of Cr.P.C. was got recorded who stated that on 25.04.2023, at about 2-2.30 AM, six persons had come in an Innova car in the house of her cousin Bawi. On asking of Bawi to accompany them as they were good people, she had sat in the said Innova car with Bawi. After crossing some distance, Bawi had asked her to sit in a swift car which had reached there by following them. She was taken to the house of the present petitioner Teg. Accused Samo, Mohammad Hazoor and Saif were found present in the said house. She disclosed that she was kept confined in the house of the petitioner for 25-26 days. The accused Zakar and Mohammad Hazoor had asked her to solemnize marriage with the petitioner and on her refusal, they had extended beatings to her. She further stated that accused Mohammad Hazoor, Samo

and Saif had ravished her for 7-8 days. Offences under Sections 376-D and 120-B of the Act and Section 6 of POCSO Act were added on the basis of her statement. The petitioner and the above named Samo, Mohammad Hazoor and Zakar were nominated as accused. Then vide Rapat No. 26 dated 26.05.2023, his sister Bawi was also nominated as an accused.

4. It is submitted in the petition and learned counsel for the petitioner has vehemently argued that the petitioner has been falsely implicated in this case as he has been supporting one Kashamdin who has lodged an FIR against the real uncle of the prosecutrix, in order to exert pressure upon the above Kashamdin for entering into a compromise with uncle of the victim. It is submitted that the father of the prosecutrix as well as complainant have sworn affidavits in favour of the petitioner saying that they do not want to initiate any proceedings against him. After conducting investigation, the police has prepared cancellation report in this case. Custodial interrogation of the petitioner is no more required. No useful purpose is going to be served by keeping him in custody anymore. Hence, it is argued that the petition deserves to be allowed.

5. Status report has been filed by learned State counsel, as per which the victim had alleged that she had been abducted/kidnapped and kept confined in the house of present petitioner for 6-7 days. However, it is also submitted in the status report that the facts relating to allegation of commission of gang rape with the prosecutrix have not been proved during investigation and the case is found to have been registered on wrong facts and cancellation report has been prepared. It is also submitted that an application for discharge of the petitioner is also pending before the

concerned Court.

6. Keeping in view the fact that after conducting investigation in the matter, cancellation report has been prepared by the investigating agency, coupled with the fact that the petitioner is in custody since 02.07.2023, the allegations of kidnapping or committing rape upon the prosecutrix have not been levelled against him and the attendant facts and circumstances of the case, I am of the considered opinion that the petition deserves to be allowed.

7. Hence, the petition is allowed, the petitioner is ordered to be released on bail, subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

8. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

9. Since the main case has been allowed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

19th December, 2023
Parveen Sharma

1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No