

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-50591-2023

Date of Decision: 11.10.2023

Sagar Ghera

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Dinesh Nagar, Advocate for the petitioner.

Mr. Jaswinder Singh Arora, DAG, 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. 0082 dated 04.06.2023 registered under Sections 363 and 366-A IPC at Police Station Garhshankar, District Hoshiarpur.

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

“12. Statement of Jasveer Kumar son of Som Nath. Resident of Lehra PS Garshankar, Age about 41 years. Phone No. 84275-24994 stated that I am a resident of the above address and a laborer. I have three children out of which one is a girl Sarjot whose date of birth is 29-05-2006. On 02-06-2023, as a routine, she went to work and did not return till evening, so we searched around for her, but she was not found till today. My daughter Sarjot has been enticed by P Sagar Ghera son of. Jaswinder Kumar, resident of Lehra police station, Garshankar with the intent of marriage. He has taken her by deception because a few days ago he had threatened that he will marry Sarjot, who was also warned in the Panchayat that the girl is not an adult and cannot take her own decision, so he apologized verbally in the Panchayat. Now since 02-06-23 he is also missing from

home. Therefore, Sagar Ghera son Jaswinder Kumar, resident of Lehra police station, Garshankar, has taken away my minor girl with the intention of marrying her. Legal action be taken against him and my girl be recovered.....”

Learned counsel, *inter alia*, submits that the aforesaid FIR was registered on the basis of statement of the father of the victim. It is submitted that the date of incident is 02.06.2023, however, the aforesaid FIR has been registered 02 days thereafter, i.e. on 04.06.2023. Even otherwise, at the time of incident the victim was 17 years and 01 month old; whereas the petitioner was 20 years old. The petitioner and the victim were in a consensual relationship. It is further submitted that the victim in her statement recorded under Section 164 Cr.P.C. has not made any allegation against the petitioner and stated that she went with the petitioner on her own sweet will and accord. The victim even refused for her medical examination; and after she was recovered, she refused to go with her parents and chose to go to Gandhi Vanita Ashram. It is also submitted that the petitioner has been in custody since 01.07.2023. 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 has filed custody certificate dated 10.10.2023, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 03 months and 10 days. Learned counsel for the State admits that the victim in her statement recorded under Section 164 Cr.P.C., has not supported the prosecution case.

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 custody certificate reveals that there is no other case against the petitioner; and the fact that charges are yet to be framed by the trial Court, therefore, conclusion of trial will take considerable time and no useful purpose would be served by further detention of the petitioner, the present petition is **allowed**.

The petitioner-Sagar Ghera S/o Jaswinder Kumar, 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.

11.10.2023
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(NIDHI GUPTA)
JUDGE

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