

**224(A) IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

**CRM M-51265-2023 (O&M)
Date of Decision: 14.12.2023**

Kulvinder Singh @ Kinda

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Abhishek Khullar, Advocate,
for the petitioner.

Mr. Jaiteshwar S. Bhandari, AAG, Punjab.

MAHABIR SINGH SINDHU. J.

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short “Cr.P.C”) seeking bail pending trial in FIR No. 229 dated 25.12.2021 registered under Section 346 IPC (Sections 302 & 364 read with Section 34 IPC added later on), at Police Station, Basti Jodhewal, District Police Commissionerate, Ludhiana.

2. The FIR in question was registered on the statement of complainant Varinder Kumar alleging that his elder son Tushar, aged 18 years, was missing since 23.12.2021 and thus, raised suspicion that some unknown persons have kidnapped him.

3. It transpires that initially, FIR was registered under Section 346 IPC, but later on, offence under Section 302 along with other ancillary offences of IPC was added.

4. Contended by learned counsel for the petitioner that it is a case based on circumstantial evidence and in order to prove the same, there should be some plausible evidence; but in view of the testimony of PW-3 Livia, motive

part is completely missing; hence, as on today, there is no material available on record regarding the complicity of petitioner.

5. In order to substantiate his argument, learned counsel for the petitioner has cited two judicial precedents (i) ***Ramanand @ Nandlal Bharti Vs. State of Uttar Pradesh (Criminal Appeal No. 64-65 of 2022 decided on 13.10.2022)***; and (ii) ***Ganga Ram Vs. State of Haryana and others (CRM-A-285-2019 decided on 25.01.2023)***.

6. Also contended that as on today, only 4 prosecution witnesses have been examined and as such, the trial is likely to take sufficient long time; thus petitioner be enlarged on bail during trial.

7. *Per contra*, learned State counsel opposed the bail while submitting that during investigation, dead-body of young boy, (18 years old) was recovered at the instance of the petitioner; thus, his complicity is well apparent in commission of the crime.

8. Also submitted that in case the petitioner is released on bail, he is most likely to threaten the prosecution witnesses; and as such, does not deserve the concession of bail, at this stage.

9. Heard learned counsel for the parties and perused the paper-book.

10. It transpires that initially, FIR was registered under Section 346 IPC, but during investigation, supplementary statement of complainant was recorded.

Police file also reveals that at the instance of petitioner as well as co-accused, namely, Robin Singh @ Yash, dead body was recovered on 03.01.2022.

Petitioner may be right to the extent that PW-3 Livia is not supporting the prosecution case, but other material prosecution witnesses are

yet to be examined to prove the charges. Of course, in the present case, motive can be a relevant factor, but that would be seen after leading the entire prosecution evidence.

11. So far as the case laws cited by Id. counsel for the petitioner are concerned, the same would be distinguishable due to the reason that opinion in those cases were expressed at the time of final adjudication. But in the present case, it is only the bail matter; as such, expressing any definite opinion, at this stage (either way) would be preposterous.

12. Apart that, learned State counsel has specifically raised an objection that in case petitioner is released on bail, he is likely to threaten the prosecution witnesses.

13. In view of the above, this Court is not inclined to accept the present petition for bail.

14. Consequently, the same is dismissed, at this stage.

15. Pending application(s), if any, shall also stand disposed off.

14.12.2023

SN

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No