

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-56469-2022 (O&M)

Date of decision: 17.07.2023

Gurdeep Singh @ Gandhi

...Petitioner(s)

Vs.

State of Punjab

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Angel Walia, Advocate
for the petitioner.

Mr. Hitten Nehra, Addl. AG Punjab.

NIDHI GUPTA, J.

Prayer in the present first petition under Section 439 of Code of Criminal Procedure (hereinafter referred to as "Cr.P.C.") is for grant of regular bail to the petitioner in FIR No.184 dated 01.08.2022 under Sections 363 and 366 IPC registered at Police Station Chheharta, District Amritsar, Punjab.

2. It is inter alia submitted by learned counsel for the petitioner that the prosecutrix was 17 years and 11 months old at the time of alleged incident; and that there is a delay of 24 days in filing the FIR as date of alleged incident is 05.07.2022 and FIR was lodged on 01.08.2022.

3. Learned counsel further submits that the prosecutrix in her statement under Section 164 Cr.P.C. recorded on 12.08.2022 before the learned JMIC (D) Amritsar(Annexure P3)has stated as follows:-

“I left my house with my own wish and I want to marry with Gurdeep Singh. I don’t want to return back to my parents home and want to stay with him.”

4. Learned counsel also refers to the statement of prosecutrix dated 11.05.2023 as PW1 before the learned trial Court, wherein she has reiterated that she and the petitioner want to solemnize marriage and that she had accompanied the petitioner of her own sweet will. Ld. Counsel further submits that the petitioner is in custody since 10.08.2022 and the petitioner has no other criminal antecedents.

5. Per contra, learned State Counsel while opposing the grant of regular bail is unable to deny the above said facts and submits that the prosecutrix had refused to get her medical examination conducted, and she had been produced before the Child Welfare Committee, Amritsar and was sent to State After Care Home on 11.08.2022. It is submitted by learned State Counsel that the date of birth of the prosecutrix as verified from Government Elementary School, Hamidpura, Chheharta, Amritsar and as per report of the Head Mistress, is 14.08.2004, and prosecutrix had attained majority on 14.08.2022. It is submitted that out of 14 witnesses, 8 have been examined.

6. I have heard learned counsel for the parties.

7. Keeping in view the totality of the facts and circumstances of the case and without commenting on the merits of the case, present petition is **allowed** and petitioner Gurdeep Singh @ Gandhi s/o Swaran Singh R/o 313, Hamidpura Colony, Chheharta, Amritsar is

ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of the CJM/Duty Magistrate concerned. However, it is made clear that nothing stated above shall be deemed as an expression of opinion on the merits of the case.

8. Pending application(s) if any also stand(s) disposed of.

17.07.2023

Sunena

(Nidhi Gupta)
Judge

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