

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

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CRM-M-58725-2022 (O&M)
Date of decision: 14.12.2023

Lali**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. B. S. Bhalla, Advocate
For the petitioner.

Ms. Himani Arora, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 271 dated 31.10.2022, registered under Sections 363, 366-A of the IPC at Police Station Gate Hakima, Tehsil & District Amritsar (Police Commissionerate Amritsar).

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis the statement recorded by complainant 'HB' (*name withheld*) alleging therein that on the night of 28.10.2022, he along with his wife and children slept in his house as per daily routine and on waking up in the next morning, his 16 years old daughter 'H' was found to be missing. He made search for her everywhere but could not found her. He disclosed that previously in the month

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of March, 2022, his daughter had been enticed away by the petitioner but had returned back. At that time, a compromise had been effected between the family of the petitioner and his family and that is why no action was taken. He raised suspicion that now also, his daughter had been induced by the petitioner on the pretext of performing marriage and was enticed away. He also raised suspicion that the family members of the petitioner had a hand in the same. After registration of the FIR, investigation proceedings were initiated. The petitioner was arrested on 10.11.2022. The victim was also recovered from his custody. The statement of the victim was recorded under Section 164 Cr.P.C., wherein she stated that she had voluntarily accompanied the petitioner. She had gone with the petitioner as she loved him and wanted to marry him. She even refused to get her medico-legal examination conducted and even to join her parents. Therefore, she was ordered to be kept at Children Home, Amritsar. During the course of investigation, offence under Section 212 IPC was also added against the mother of the petitioner and she too was arrested. After completion of necessary investigation and usual formalities, challan was presented in the Court and now the petitioner is facing trial for commission offences punishable under Sections 363 and 366-A of the IPC, whereas co-accused has been chargesheeted under Section 212 IPC. The petitioner had moved an application for grant of regular bail before the trial Court but the same was dismissed, vide order dated 17.11.2022.

3. The present petition has been filed on the ground and it has been argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is in custody since 10.11.2022. His custodial interrogation is no more required. The trial is to take some time. No useful purpose would be

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served by keeping him in custody anymore. In her statement recorded under Section 164 Cr.P.C., the victim had deposed that she had voluntarily gone with the petitioner. Therefore, the ingredients of the subject offence had not been established. With these broad submissions, it is urged that the present petition deserves to be allowed.

4. *Per contra*, learned State counsel has vehemently argued that there are serious allegations against the petitioner. The victim, in her sworn deposition as recorded before the Court, has levelled allegations of being kidnapped/abducted on the inducement given by the petitioner on the pretext of marrying her and she even levelled allegation that she was ravished by the petitioner. Being a minor, the consent of the victim is of no consequence. There is nothing on record to show that there would be any undue delay in conclusion of trial and the same is going at a fast pace. Hence, it is urged that the petition is liable to be dismissed.

5. The petitioner is alleged to have enticed away/kidnapped/abducted the minor victim on the pretext of performing marriage with her. Though in her statement recorded under Section 164 Cr.P.C., the victim had stated that she had voluntarily and willingly gone with the petitioner as she loved him and wanted to marry him, however, when her statement was recorded before the Court, she levelled allegations of being kidnapped/induced on the pretext of performing marriage and ravished by the petitioner. It will not be out of place to mention here that the copy of the statement of the victim, as recorded by the trial Court, has been sent by the trial Court as per direction issued in this case earlier. Keeping in view the gravity of offences alleged to have been committed by the petitioner, the

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quantum of sentence which the conviction may entail and the attendant facts and circumstances, this Court is of the considered view that the petitioner does not deserve to be given concession of regular bail. Hence, the petition stands dismissed.

14.12.2023

Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>