

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M 60044/2022

Date of decision: 20.07.2023.

Kamal Kaur @ Komal

.....Petitioner.

Vs.

State of Punjab

.....Respondent

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ravi Malhotra, Advocate for the petitioner.

Mr. Tushar Sharma, Advocate for the complainant

Mr. Pankaj Khullar, AAG Punjab

Nidhi Gupta, J.

Petitioner-Kamal Kaur @ Komal in her first petition under Section 439 Cr.PC prays for grant of regular bail in case bearing FIR No.300 dated 2.11.2022 under Sections 363, 366-A IPC, PS Sultanpur Lodhi, District Kapurthala.

As per allegations in the FIR registered on the basis of complaint made by Kuldeep Singh – Uncle of the victim who is aged 16 years, petitioner-Komal daughter of Daljit Singh, and Tirath Singh son of Jarnail Singh, developed close relations with victim, and they both used to instigate her to go with them for immoral acts but the complainant used to ask both Tirath Singh and Komal to remain away from victim because Tirath Singh was of feminine nature boy and used to roam with girls and the complainant was not liking his such nature. Petitioner-Komal on 31.10.2022 at about 12.00

P.M. took the victim in the presence of complainant even without taking the

permission or telling the complainant as to where she was taking the victim. When the applicant/accused Komal returned home at about 6:00 P.M., the complainant enquired about the whereabouts of the victim from her. Initially she kept on putting off the matter on one pretext or the other but on his insistence, disclosed that the victim had left with some boy from the bus stand of Sultanpur Lodhi, but petitioner refused to disclose anything about the boy. Thereafter the complainant alongwith other Mohalla residents asked the petitioner about the victim. Then she disclosed that the accused Tirath Singh only was knowing about the said boy and Tirath Singh was also having mobile number of the said boy in his mobile phone and she had left the victim with said boy on the asking of accused Tirath Singh only. The complainant, allegedly had full belief that the petitioner Komal and Tirath Singh in connivance with each other had sent his niece/victim with some boy for illicit intercourse and till date they had kept of making efforts to know the whereabouts of victim from the accused namely Tirath Singh and petitioner Komal but to no avail and finally FIR was registered and the investigation was initiated, during the course of which, the statements of the witnesses were recorded and the petitioner was arrested on 06.11.2022 and the victim was produced before the Investigating officer by Jasbir Kaur mother of accused Sukhwinder Singh and victim was also produced before the learned Judicial Magistrate. The victim also recorded her statement under section 164 of Cr.PC before the learned Judicial Magistrate. However, she refused to undergo medico legal examination.

Mr. Tushar Sharma, Advocate has filed his Vakalatnama in Court today on behalf of complainant, which is taken on record.

Ld. counsel for the petitioner submits that at the time of alleged incident victim was 17 years old. It is submitted that charges have been framed in the matter, however, matter has been compromised between the petitioner and the victim. It is further submitted that offence under Section 366A IPC is not made out in the present case, and offence under Section 363 IPC is bailable offence. It is further submitted that in her statement under Section 164 Cr.PC., the victim had refused to undergo medico legal examination. It is also submitted that petitioner is in custody since 2.11.2022.

Ld. State counsel has produced Custody Certificate dated 19.7.2023 which is taken on record. Ld. State counsel further opposes the prayer for grant of regular bail to the petitioner.

Heard ld. counsel for the parties and considered their submissions.

Investigation in the matter is over and nothing is to be recovered from the petitioner. Petitioner is in custody since 6.11.2022 and has undergone 08 months 15 days; and no other case is pending against her. Trial of the case will take some time to conclude. It will serve no useful purpose to keep the petitioner in custody. Accordingly, the present petition is **allowed**, and petitioner-Kamal Kaur @ Komal, is ordered to be released on bail on her furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

It is however, made clear that nothing stated above shall be taken as an expression of opinion on the merits of the case.

20.07.2023.

Joshi

RAJINDER PARSHAD JOSHI
2023.07.21 17:22
I attest to the accuracy and
integrity of this document

(Nidhi Gupta)
Judge