

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

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CRM-M-61528-2023 (O&M)
Date of decision: 14.12.2023

Salman Khan @ Mamo**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Vikas Bali, 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. 64 dated 26.07.2023, registered under Sections 354, 363, 506 of the IPC and Section 10 of the POCSO Act, 2012 (Section 18 of the POCSO Act added later on) at Police Station Sadar Kapurthala, District Kapurthala.
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 of the statement recorded by the complainant 'B' (*name withheld*) alleging therein that on the intervening night of 24/25.07.2023, his mother had died. He along with his family members was sitting in the local *Dharamshala* to pay condolences at about 10:00 PM when his wife came there and informed him that their nine years old daughter was missing from the house and could not be traced. On hearing so, he along with some other persons, who were present there, proceeded to make search for his daughter and on reaching the street of

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house of one Joginder Ghumiar, he found the petitioner sitting with his daughter, who was crying and was being sexually assaulted by the petitioner. The complainant also heard the petitioner while threatening his daughter to remain quiet or otherwise to kill her by strangulating her. He got his daughter released from the clutches of the petitioner and had brought her back to home. The petitioner had fled away in the meanwhile. The complainant further alleged that on asking, his daughter had told him that the petitioner had taken her away on the pretext of buying something to eat for her. After registration of the FIR, investigation proceedings were initiated. The petitioner was arrested on 27.07.2023. After completion of necessary investigation and usual formalities, *challan* under Section 173 Cr.P.C. was presented in Court and presently, he is facing trial for commission of aforementioned offence. He had moved an application for grant of regular bail before the trial Court but the same was dismissed, vide order dated 10.11.2023.

3. The present petition has been filed by the petitioner on the ground and his counsel has argued that he has been falsely implicated in this case. The petitioner is in custody since 27.07.2023. His custodial interrogation is not required. The conclusion of trial is likely to take some time. There are no chances his absconding as he has a permanent abode. In fact, he was confined illegally by the police on the night of 25.07.2023 and his arrest was wrongly shown on 27.07.2023. No useful purpose would be served by keeping him in custody anymore. Hence, it is prayed that the present petition deserves to be allowed.

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4. *Per contra*, learned State counsel has argued that there are serious and specific allegations against the petitioner. The victim is yet to be examined. There are chances of his intimidating the witnesses. Therefore, he has argued that the present petition is liable to be dismissed.
5. I have heard learned counsel for the parties and have also gone through the material placed on record very carefully.
6. The petitioner is alleged to have taken away the daughter of the complainant on the night of 25.07.2023 and is further alleged to have made an attempt to commit offence of aggravated sexual assault while inappropriately touching her. He is in custody since 27.07.2023. The trial has commenced and conclusion of the same is likely to take some time. There is no basis for the contention that he may intimidate the witnesses. Keeping in view the subject offences and the period of custody spent by the petitioner, I am of the considered opinion that no useful purpose would be served by keeping him in custody anymore.
7. Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.
8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

14.12.2023

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No