

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

213

CRM-M-204-2024

Date of Decision: 06.03.2024

Baljinder Singh @ Gaggi @ Karan

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Hitesh Verma, Advocate for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 81 dated 06.12.2022 registered under Section 4 of the Protection of Children from Sexual Offences Act, 2012 and 376 IPC at Police Station City Raikot, District Ludhiana.

The present FIR has been registered on the basis of statement of complainant/victim herself, which reads as under:-

“.....Stated that I became friend with boy named Karan on Instagram. He was known to me for last one year. We both were talking to each other on phone for the last one year. In August 2022, I went to Sector 43, Chandigarh to meet Karan who is resident of Sangrur, without informing at my home. Then my family came to know about this. They forcibly snatched my phone. Then I used to talk with Karan from phone of some other person. On 16.11.2022, at 7:45 am I left for my school after telling my family that I was going to my Govt. School Chandigarh at Sector 13. But instead of going to school, I went to Bus Stand at Sector 43 Chandigarh to meet Karan. Then I went to Ludhiana Punjab with Karan.

Then I went to house of Karan at Village at Sangrur. I stayed with Karan at his house for one day. Next day his maternal uncle & aunt asked Karan to drop me at my home. On 17.11.2022, Karan took me to Ludhiana Bus Stand from his village. Then took me to Jalandhar Bye pass on auto. There we stayed at jungle in the night. Next day we went to Raikot on foot. From there we went towards jungle on foot & there in the night Karan made physical relations with me forcibly. Next day he called his maternal uncle & called him to bus stand Raikot. Maternal uncle & aunt of Karan took me to Malerkotla. From there my family members took me to HMT Pinjore. On 18.11.2022, Karan did wrong act with me, legal action be taken. Above statement is being given by me without any pressure.....”

Learned counsel for the petitioner, *inter alia*, submits that at the time of occurrence the victim was 17 years of age; whereas the petitioner was 19 years old. In the FIR, the victim had admitted that she went to meet the petitioner at Chandigarh on her own sweet will and accord. It is submitted that although in the FIR, it has been stated by the victim that the petitioner had made forcible physical relations with her, however, the MLR (Annexure P-2) of the victim is contrary to the aforesaid statement, as no external or internal injury mark was seen to be present on the person of the complainant. It is further submitted that the petitioner has been in custody since 08.12.2022 and moreover, material witness i.e. the victim has already been examined by the trial Court. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that the present petition may be allowed and the petitioner be released on regular bail.

Learned counsel for the State has filed custody certificate dated 04.03.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 01 year, 02 months and 25 days. As per custody certificate, there is no other case against the

petitioner. Learned State counsel vehemently opposes the prayer for grant of regular bail to the petitioner and submits that victim was minor at the time of incident. She further informs that out of total 19 prosecution witnesses, only 01 has been examined, so far.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case and the custody period undergone by the petitioner including the fact that the custody certificate reveals that there is no other case against the petitioner; moreover, material witness i.e. the victim stands examined; and out of total 19 prosecution witnesses, only 01 witness has been examined till date, therefore, conclusion of trial will take considerable time and no useful purpose would be served by further detention of the petitioner. Thus, the present petition is **allowed**.

The petitioner-Baljinder Singh @ Gaggi @ Karan, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

06.03.2024

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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No