

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

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CRM-M-1274-2024 (O&M)
Date of decision: 30.04.2024

Gobind Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. P. S. Brar, Advocate
for the petitioner.

Mr. Satjot Singh, 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. 116 dated 07.09.2022, registered under Sections 363, 366-A of IPC (Sections 458, 346 and 120-B of IPC added later on) at Police Station Jaitu, District Faridkot.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was initially registered under Sections 363 and 366-A of IPC on the basis of the statement recorded by the complainant Charanjeet Kaur on 07.09.2022 alleging therein that her daughter 'P' (*name withheld*), who was aged about 17 years and was studying in 8th Class, was found to be missing from their house in the morning of 30.08.2022,

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though on the previous night, she had slept along with her other siblings on a bed lying in the gallery of the house. She raised suspicion that her daughter had been enticed away by the accused Arshpreet Singh @ Gulla in connivance with his friends and the present petitioner Gobind Singh on the pretext of performing marriage with accused Arshpreet Singh @ Gulla. Investigation proceedings were initiated. During the course of investigation, the victim was recovered from the custody of accused Arshpreet Singh. Her statement under Section 164 of Cr.P.C. was recorded, wherein she disclosed that in the intervening night of 29/30.08.2022, accused Arshpreet Singh along with his five companions had come to her house. They were armed with weapons and by catching hold of her and threatening to cause damage to her house if she did not accompany them, accused Arshpreet Singh and his companions had taken her out of her house and then she was taken to different places by them. On reaching Hazoor Sahib, she had managed to call her parents and they were apprehended by the police when accused Arshpreet Singh was bringing her back.

3. As per the allegations, the petitioner was arrested on 06.11.2022. During investigation, offences under Sections 458, 346 and 120-B of IPC were also added. After completion of necessary investigation and usual formalities, *challan* under Section 173 Cr.P.C. was presented against the petitioner and co-accused and presently, they are facing trial for commission of aforementioned offences. The petitioner had moved an application for grant of regular bail before the trial Court but the same was dismissed, vide order dated 06.12.2023.

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4. 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 only on the basis of suspicion. The victim was in fact having affair with accused Arshpreet Singh and had eloped with him. She was recovered from the custody of accused Arshpreet Singh and as per own version of the victim, it was accused Arshpreet Singh, who had taken her to various places. There are no allegations that the petitioner had accompanied them at any point of time. He was not named in the FIR. There is delay of 10 days in reporting the matter to the police. It is also not shown that the victim was in fact a minor. The ingredients for commission of either of the offences punishable under Sections 363 and 366-A of IPC have not been attracted as against the petitioner. He is in custody since 06.11.2022. Co-accused Manpreet Singh, whose case was on similar footing, has been extended benefit of regular bail, whereas co-accused Gurpreet Singh, whose case was also on similar footing, has been granted concession of anticipatory bail by this Court. On the ground of parity, he too deserves to be given benefit of regular bail. The trial is likely to take time. There are no chances of his intimidating the witnesses. Therefore, it is urged that the present petition deserves to be allowed.

5. *Per contra*, learned State counsel has argued that there are serious and specific allegations against the petitioner. Trial has commenced and there is nothing on record to show that there would be any undue delay in conclusion of the same. There are chances of the petitioner's absconding, if extended benefit of bail. Therefore, it is argued that the present petition is liable to be dismissed.

6. I have heard learned counsel for the parties and have also gone through the material placed on record carefully.

7. The petitioner is alleged to have connived with the accused Arshpreet Singh and other accused for the purpose of kidnapping the victim, who was a minor and with whom accused Arhpreet Singh was allegedly having an affair and is further alleged to have a hand in her kidnapping. The petitioner is in custody since 06.11.2022. Investigation has since been completed. Trial has commenced. Co-accused Manpreet Singh and Gurpreet Singh, whose case was also on similar footing, have been granted concession of anticipatory bail/regular bail by this Court. As per Section 366-A of IPC, whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be liable for punishment. Therefore, it is a debatable question as to whether the ingredients for commission of offences punishable under Sections 363 and 366-A of IPC have been attracted against the petitioner or not as it is not the allegation against him that it was him, who had enticed away the minor victim or she was kidnapped/abducted for the purpose of procurement. The allegations also do not make out a *prima facie* case for commission of offences punishable under Sections 458 and 346 of IPC against the petitioner. In view of the discussion as made above, I am of the considered opinion that this petition deserves to be allowed and the petitioner deserves to be given concession of regular bail on the ground of parity as well as period of incarceration.

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8. Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.
9. 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.
10. It is also made clear that the petitioner shall not influence/intimidate or try to meet the victim/complainant; shall not visit their house or try to influence any other witness of the case and shall not leave the country without prior permission of the Court. In case of violation of any of these conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with law.

30.04.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

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