

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

205

CRM-M-1671-2024

Date of Decision: 15.03.2024

Rohin @ Rohan

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Umesh Aggarwal, Advocate for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 2nd petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 74 dated 19.06.2023 registered under Sections 363 and 366-A IPC at Police Station Division-E, District Police Commissionerate, Amritsar.

The aforesaid FIR was registered on the basis of statement of uncle of the victim which reads as under:-

“....Statement of Karam Singh son of Sahib Singh Resident of Village Berta Tehsil Fatehpur District Kangra Himachal Pradesh Police Station Fatehpur Age 52 years Mobile No. 98162-09250 has stated that I am a resident of the said address and working as a laborer. My relative Birbal Singh son of Mr. Inder Singh resident House No. 1635/2, Near Mari Sahib, Aman Colony Police Station Dhanas Chandigarh girl, Riya came to us on 17- 06-2023 to spend her holiday. Me and my wife Bimala Devi and my relative Birbal Singh, daughter Riya together went to Sri Darbar Sahib via bus on 18-06-2023. We were standing together in the morning of 18.06.2023 at Sri darbar Sahib where the girl

Riya got separated from us because of the crowd. We searched a lot in Darbar Sahib but could not find it. We are sure that some unknown person has away taken our Riya. Legal action must be taken. SD/ Karam Singh....”

Learned counsel for the petitioner, *inter alia*, submits that at the time of occurrence, the victim was 16 years and 2 months old. Initially, the petitioner was not named by the complainant in the FIR (Annexure P-2). It is submitted that it is only in the challan dated 02.08.2023 (Annexure P-3), it has been mentioned that father of the victim had made a statement on 20.06.2023 to the effect that the petitioner had enticed his daughter/victim away; whereupon the petitioner was arrested.

It is further submitted that it is the case of the prosecution that the petitioner was arrested from the Gurudwara Sahib at Amritsar and the victim was found in his custody. Learned counsel for the petitioner vehemently disputes this fact and in this regard refers to Annexure P-7 which is the CCTV Footage dated 19.06.2023 at 7:16 A.M. of the office, where the petitioner is posted as Security Guard, which shows that the police took the petitioner into custody from his office. Further, it is submitted that the victim has made a statement under Section 161 Cr.P.C appended with the petition as Annexure P-4, wherein she has alleged that on 18.06.2023 i.e. the date of incident, she got separated from her family after visiting Darbar Sahib, whereupon she met with the petitioner who allegedly told her that he wants to marry her, but she refused. Thereupon, the petitioner threatened to kill himself because of which the victim got scared and fell into his trap and went with him. The victim has further stated that the petitioner did nothing wrong to her

and that she did not want to undergo any physical medical examination.

Learned counsel for the petitioner contends that the petitioner and the victim knew each other, as they are residents of the same colony. In this regard, learned counsel refers to Instagram chat dated 17.06.2023 (Annexure P-6) between the petitioner and the victim which is of one day prior to the occurrence i.e. 17.06.2023.

Learned counsel for the petitioner very vehemently contends that petitioner has been in custody since 20.06.2023. The challan was presented before the trial Court on 02.08.2023, however, till date the petitioner has not been produced before the learned trial Court for framing of charges. In this regard, learned counsel for the petitioner refers to zimni orders (Annexure P-8, Colly.), wherein it has been reflected that the petitioner has not been produced before the learned trial Court and the orders have been passed in a very casual manner, without taking into consideration the provisions of Article 21 of the Constitution of India and the next date of hearing before the learned trial Court is 02.04.2024. Thus, it is prayed that the present petition may be allowed and the petitioner be released on regular bail.

Status report dated 13.03.2024, filed by way of affidavit of Sh. Surinder Singh, Assistant Commissioner of Police, Central, Amritsar City on behalf of the respondent-State, in compliance of the order dated 19.01.2024, is taken on record. Learned counsel for the State has also filed custody certificate dated 14.03.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 08 months and 27 days.

Per Contra, learned counsel for the State vehemently opposes the prayer for grant of regular bail to the petitioner and submits that the victim in the present case is minor who was recovered from the custody of the petitioner and recovery memo dated 20.06.2023 in this regard is appended herein as Annexure P-5. Accordingly, it is stated that the contention of learned counsel of the petitioner that the petitioner was picked up by the police from his office on 19.06.2023, is incorrect. She further points out that the first petition for grant of regular bail filed by the petitioner bearing CRM-M-43981-2023 was dismissed as withdrawn by this Court vide order dated 12.09.2023 (Annexure P-1).

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; and also the fact that trial has not commenced as the same is still at the stage of framing of charges, therefore, its conclusion 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-Rohin @ Rohan S/o Lal Chand, 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.

Report from the trial Court concerned be also called as to why till date charges have not been framed against the petitioner, in view of the fact that challan in the present was presented on 02.08.2023.

The Superintendent of Central Jail, Sri Goindwal Sahib, District Tarn Taran, shall also furnish an affidavit explaining therein as to why the petitioner was not produced before the trial Court, despite issuance of repeated production warrants by the trial Court w.e.f. 04.09.2023 to 06.01.2024, as depicted from the zimni orders (Annexure P-8, Colly.).

The aforesaid directions issued to the learned trial Court and the Superintendent, Central Jail, Sri Goindwal Sahib, be complied with, within a period of 04 weeks from today.

Registry is directed to put up the matter again after the receipt of report from the trial Court and of affidavit of the Superintendent, Central Jail, Sri Goindwal Sahib.

15.03.2024

rishu

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No