

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203

CRM-M No.2565 of 2024
Date of Decision: 22.03.2024

Nishan Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ranjodh Singh Sidhu, Advocate,
for the petitioner.

Mr. Amandeep Singh Samra, AAG, Punjab.

MANISHA BATRA, J.(Oral)

1. The present petition has been filed by the petitioner under
Section 439 of Cr.P.C. seeking regular bail in FIR mentioned below:-

FIR No.	Police Station	Sections
268	City Patti, District Tarn Taran	363 and 366-A of IPC and 8 of Protection of Children from Sexual Offences Act, 2012 (For short “POCSO Act”)

2. Brief facts 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 “S” (name withheld) on 26.11.2020
alleging therein that the victims “K” and “N” (names withheld) who were
her two minor daughters, had gone missing from his house on the night of
21.11.2020 and he could not find them. He raised suspicion that his
daughters had been enticed away by the accused Gurlal Singh and
Gurdev Singh who were previously residing in his neighbourhood on the
pretext of performing marriage. During investigation, the victims were

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recovered from the custody of the above named accused. They were also arrested. Statements of the victims were recorded and offences under Sections 376 of IPC and Sections 4 and 6 of POCSO Act were added. The co-accused Gurdev Singh and Gurlal Singh suffered disclosure statements on their interrogation saying that they had kidnapped the victims at the behest of the present petitioner who is their step maternal uncle, and had ravished them. As such, the petitioner was also nominated in this case. He was arrested on 19.09.2023. Offence under Section 120-B of IPC was added. After completion of necessary investigation, supplementary challan was presented against him and presently, he along with the co-accused is facing trial.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. Neither in the complaint nor in the statements recorded by the victims under Section 164 of Cr.P.C. they had taken the name of the present petitioner as the person who had either kidnapped them or ravished them. He had been implicated in this case only on the basis of disclosure statements of the co-accused which are not admissible in evidence. The trial is likely to take time. He is in custody since 19.09.2023. His complicity in the subject crime is not at all made out from the record. Therefore, it is argued that he deserves to be given concession of bail.

4. Status report has been filed by the respondent-State and the same is taken on record. It is argued by learned State counsel that the petitioner was instrumental in lending a helping hand to the co-accused Gurdev Singh and Gurlal Singh in kidnapping of the victims and then ravishing them. There were serious allegations against him. He is having

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criminal antecedents as another case is pending against him. Therefore, it is argued that he does not deserve to be given concession of bail.

5. I have heard learned counsel for the petitioner as well as learned State counsel and have perused the record carefully.

6. The petitioner had been admittedly and evidently neither named in the FIR nor in their statements as recorded under Section 164 of Cr.P.C., the victims had not levelled any allegation about involvement of the petitioner in the subject crime. The petitioner has been involved in this case only on the basis of disclosure statement of the co-accused and the part which has been attributed to him is that it was at his behest that the co-accused had kidnapped the victims and had sexually harassed them and then ravished them. Keeping in view the part alleged to have been played by the petitioner in the commission of the subject offences, the period of his incarceration, the fact that the trial is likely to take time and the attendant facts and circumstances of the case, I am inclined to hold that the petitioner deserves to be released on bail. Hence, the petition is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

22.03.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No