

JASKARAN SINGH ALAIS GIANI

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Arshdeep Singh Brar, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (ORAL)

This is the first petition filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.208 dated 24.09.2023 registered under Section 363-A of Indian Penal Code at Police Station City Moga, District Moga (Annexure P-1).

2. The present FIR was lodged on the allegations that on 23.09.2023, at about 8:00 PM, the complainant left his son Mohammad Asman on the cot after giving him milk. He got busy in household work. His son was playing while lying on the cot. When after finishing his work, the complainant noticed that his son was not there on the cot, he has been searching for his son. The complainant is confident that his son Mohammad Asman has been kidnapped by Sarabjit Kaur wife of Gurdeep Singh, Mandeep Singh son of Dev Singh and Jassi son of unknown.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been named in the FIR, merely on the basis of suspicion. The

petitioner is not even known to the complainant and his son was recovered

from the possession of co-accused, namely, Sarabjit Kaur. Learned counsel further submits that the petitioner is a resident of village Darapur, District Moga, whereas co-accused Sarabjit Kaur is resident of Patti Jandwali, Raniya, District Moga and he has no connection with co-accused Sarabjit Kaur. The investigating agency has already concluded the investigation.

4. Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the grounds that the petitioner is involved in a serious offence as he, along with other co-accused, has kidnapped the minor son of the complainant, for the purpose of selling him and his role has been clearly established during the investigation.

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 19.10.2023, as per custody certificate. The investigating agency has completed the investigation and submitted the final report under Section 173 Cr.P.C. on 24.11.2023. The trial of the case has not made any progress yet as out of 13 witnesses cited by the prosecution, none has been examined so far. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Keeping the petitioner in further detention, without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

6. Keeping in view the facts and circumstances of the case, the present petition is allowed without commenting upon the merits of the case lest it may prejudice the outcome of the trial, and the petitioner- Jaskaran Singh *alais* Giani is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

7. Nothing observed hereinabove shall be construed as expression of

opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

February 09, 2024
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(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |