

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

207

CRM-M-6591-2024

Date of Decision: 21.03.2024

Deepak Kumar Mishra

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Naresh Prabhakar, Advocate for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

NIDHI GUPTA, J. (ORAL)

Status report dated 21.03.2024, filed by way of affidavit of Sh. Jasbinder Singh, Assistant Commissioner of Police, Industrial Area “A”, Ludhiana, on behalf of respondent-State, is taken on record.

A copy thereof, has been supplied to learned counsel for the petitioner.

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. 354 dated 21.12.2021 registered under Sections 363 and 366-A IPC at Police Station Focal Point, District Police Commissionerate, Ludhiana.

The aforesaid FIR was registered on the basis of statement of complainant/father of the victim, which is reproduced as under:-

“Statement of Chander Kumar Gupta Son of Jagdish Shah

Gupta, resident of Village Mohkama Police Station Hatha District Patna Bihar at presently Resident of Sukhdev Da Vehra, Street No. 2 Balala Colony, Village Gobindgarh, Police Station Focal Point, Ludhiana, Aged 37 Years Mobile No. 88729-06797. Stated that I resident of the said address and I am doing private job at D.K. factory village Pawa. I have three children and son Masoom Kumar aged about 20 years, second daughter Neha Kumari and her date of birth is 25.12.2003 aged about 18 years and third daughter Nidhi Kumari aged about 9 years and my daughter Neha Kumari stays at home. On 13.12.2021, the health of my wife Soni Devi was bad and as such for getting treatment of my wife Soni Devi, I took her to a private hospital. My daughter Neha Kumari was alone at home at about 9:00 AM. When I returned after getting medicines for my wife Soni Devi then my daughter Neha Kumari was not at home. Myself and my wife Soni Devi were tracing my daughter all the time in the area around our house but no information could be collected about my daughter Neha Kumari. Today I have come to know that my daughter Neha Kumari has been enticed by Mr. Deepak Kumar Mishra S/o Yogi Mishra R/o Village Sasna, Police Station Shazadpur, District Sarpa, Bihar presently resident of Sukhdev Da Vehra, gali No. 2, Balala Colony, Village Gobindgarh, Police Station Focal Point Ludhiana is living with his family and aged about 20/22 years and is not present at house and I am fully convinced that in order to marry her, Mr. Deepak Kumar Mishra has taken her by enticing her in order to accomplish his mission. I was coming to inform you at Chowki and you met me at Pipal Chowk, Gobindgarh and I got my statement recorded in the presence of my wife Sona Devi, which is correct and has been heard. Action be initiated against Deepak Kumar aforesaid....”

Learned counsel for the petitioner, *inter alia*, submits that

the aforesaid FIR was registered on the basis of statement of the complainant/father of the victim. It is submitted that at the time of commission of crime, the victim was 10 days less than the age of 18 years. Thereafter, the petitioner and the victim have solemnized marriage and in fact, 02 daughters have been born out of their wedlock. Learned counsel for the petitioner informs that the petitioner has also filed a petition bearing No. CRM-M-12622-2024, before this Court seeking quashing of the aforesaid FIR, on the basis of compromise and the next date hearing in the same is 17.07.2024. The petitioner has been in custody since 13.01.2024. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that petitioner be released on regular bail.

Per Contra, learned counsel for the State has filed custody certificate dated 20.03.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 02 months and 04 days. As per custody certificate, there is no other case against the petitioner. Learned counsel for the State refers to the status report and confirms that the victim and the petitioner have solemnized marriage, and that they are now living in Ludhiana; and 02 daughters have been born out of their wedlock.

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; including the custody period undergone by the petitioner and perusal of the custody certificate reveals that there is no other case against the petitioner; and the fact that 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-Deepak Kumar Mishra S/o Triyogi Mishra 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.

21.03.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No