

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-8048-2024

Date of decision: 20.02.2024

Meenu Nayak @ Rohit Nayak @ Minu Kumar

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr.Manu Loona, Advocate,
for the petitioner.

Mr. Anup Singh, AAG, Punjab.

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.112 dated 07.11.2022, registered for the offences punishable under Sections 363, 366-A, 376 of IPC and Section 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 (Section 376 IPC and Sections 4 and 6 of the POCSO Act added later on) at Police Station Bahawala, District Fazilka.

2. The case set up in the FIR in question is as follows:-

“Statement of Mangal Singh, son of Kishan Singh, resident of Kandhwala Amarkot, Police Station Bahawala, Tehsil Abohar, District Fazilka, aged about 46 years, Mobile No. 98723-22100, stated that I am resident of the above said address and doing the labour work. That my marriage was solemnized about 19 years ago with Palo Bai daughter Jarnail Singh, resident of Udki, Police Station Hindumal Kot, District Sri Ganganagar (Rajasthan) and I have 3 children. Eldest daughter namely Manpreet Kaur, aged about 16 years, who is studying in

11th class at Government Senior Secondary School, Village Kandhwala, Amarkot, younger to her Sandeep Kaur and youngest son namely Ajay Singh. My elder daughter Manpreet Kaur used to go to every morning at Gurudwara Sahib for prayer. That on 31.10.2022 at about 3.00 in the morning, when I wake up, I saw that my daughter Manpreet Kaur was sleeping on her cot/manjha. After that I fell asleep again. In the morning when all of the family members wake up then my daughter Manpreet Kaur was not present in the house. We thought that, likewise her routine she might have gone Gurudwara Sahib for prayer. In the morning at about 7-00AM, when my daughter Manpreet Kaur did not come to home, then we all family members started searching her. Search at Gurudwara Sahib and here and there, but she was not found. We all at our own level till date kept her on searching her in the relatives and now we came to know that when my daughter Manpreet Kaur went to meet her maternal family at Udki, then there, Rohit Nayak @ Meenu Nayak son of Birbal Ram, resident of I-D. Vaddi Udki, Police Station Hindumal Kot, District Sri Ganganagar (Rajasthan) kept bad eye on her, which was came in the knowledge of my brother-in-law namely Sonu, then he stopped Rohit Nayak @ Meenu Nayak to not to come in the street/gali, in regard to this, was also informed to his father namely Birbal Singh. On the day, when my daughter Manpreet Kaur left home, Rohit Nayak @ Meenu Nayak was also not present at his home. Now I full confidence that Rohit Nayak @ Meenu Nayak son of Birbal Ram, resident of I-D. Vaddi Udki, Police Station Hindumal Kot, District Sri Ganganagar (Rajasthan) took away my minor daughter Manpreet Kaur by alluring her on the pretext of marriage. Therefore, Legal Action should be taken against him. Statement is recorded to you, heard, is correct. Sd/- Mangal Singh.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 30.11.2022. Learned counsel for the petitioner has referred, *in extenso*, to the testimonies of PW-1 (victim),

PW-2 (complainant/father of victim) & PW-3 (mother of the victim) to argue that all the material witnesses have turned hostile and, in all likelihood, the trial will not culminate into conviction. Thus, regular bail is prayed for.

4. Learned counsel for the State has opposed the present petition by arguing that the allegations raised are serious in nature and, thus, the petitioner does not deserve the concession of regular bail.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 30.11.2022 whereinafter investigation was carried out & challan was presented on 02.01.2023. Total 23 prosecution witnesses have been cited and culmination of the trial will take its own time. The material/private witnesses i.e. PW-1-victim, PW-2-complainant/father of victim & PW-3-mother of victim already stand examined during the course of trial. The rival contention of the learned counsel for the parties regarding the weightage required to be attached to the testimony of the hostile witnesses will be seen during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the case of the either parties. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the remaining prosecution evidence. The petitioner is a man aged about 23 years. As per the custody certificate dated 18.02.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 01

year and 02 months & is not shown to be involved in any other case. Suffice to say, further detention of the petitioner as an undertrial is not warranted.

7. In view of totality of factual matrix of the present case, the instant petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the learned concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the

State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.
10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

February 20, 2024
poonam

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No