

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

229

CRM-M-8052-2024

Date of decision:21.02.2024

Bhupinder Singh

...Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Brijeshwar Singh Bhalla, 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.76 dated 31.03.2021, registered for the offences punishable under Sections 363, 366, 376 and 506 IPC and Section 4 of the Protection of Children from Sexual Offence Act, 2012 at Police Station Beas, District Amritsar.
2. The case set up in the FIR in question is as follows:-

"Statement of Sarabjit Kaur wife of Sarabjit Singh r/o village Satowal age about 40 years M.No.9501988374. it is stated that I am resident of above said address and do a domestic work. I have got four daughter and a son. My husband Sarabjit Singh is doing a labour job in one brickkiln. My daughter Sumanpreet Kaur who is about 16 years old is working in Ritu Karyana Store Butla. On 29.3.2021 my daughter Sumanpreet Kaur went to her job at Butla around 9.00 AM and I got a call on phone at about 3.00 PM from Ritu Karyana Store that your daughter have not come on work and I got perplexed. I and my husband started searching for my daughter and reached Ritu Karyana Store where we met our daughter and the Ritu Karyana Store told me that she has reached at that time only. She was little perplexed and we brought her back to home where my daughter Sumanpreet Kaur told us that Bhupinder Singh @Sona son of Bau Singh resident of Satowal who is of

our village had taken her forcibly in his car while she was going her job at some place where she was raped and had threatened that if she tells anything to anyone then he will her family. She stated that I have come with great difficulty. Bhupinder Singh @Sona by kidnapping my daughter and forcing himself on her have done a wrong thing. Today I alongwith my husband Sarabjit Singh was coming to give you the information when you met us on the way. Action be taken.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 19.09.2023 and investigation in the case has already been completed. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the FIR in question. Learned counsel for the petitioner while referring, *in extenso*, to the testimonies of PW-1 (mother of the victim/complainant), PW-2 (father of the victim) and PW-3 (victim) has argued that the relevant private witnesses have turned hostile and in all likelihood, the trial is not likely to culminate into conviction of the petitioner. It has been further argued that the DNA report submitted by the prosecution does not show any human semen having been detected. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 20.02.2024 in Court, which is taken on record.

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

6. The petitioner was arrested on 19.09.2023 whereinafter investigation was carried out and challan was presented on 30.09.2023. Total 21 prosecution witnesses have been cited out of which 3 private star prosecution witnesses have been examined. The rival contention of learned counsel for the parties, regarding the weightage required to be attached to the testimonies of the hostile witnesses i.e. PW-1, PW-2 and PW-3, shall be gone into 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 either parties during the course of trial. Further, no perceptible material has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the remaining prosecution evidence. As per custody certificate dated 20.02.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 05 months. Suffice to say, further detention of the petitioner as an undertrial is not warranted.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. 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/Illaq 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 21, 2024
Ajay

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