

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

229

CRM-M-8645-2024
Date of decision: 09.04.2024

KULWINDER SINGH @ GOGO

....Petitioner

V/s

STATE OF PUNJAB AND ANOTHER

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Subhash Kumar, 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.01 dated 04.01.2023 registered for the offences punishable under Sections 363, 366-A of IPC (Section 376 of IPC and Section 4/7/8 of POCSO Act added later on) at Police Station Nakodar Sadar, District Jalandhar Rural.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“Statement of Mrs. Daljeet Kaur wife Haripal Singh son of Sarvan Singh resident of village Billi Chao, police station Sadar Nakodar, District Jalandhar, age about 42 years, mobile number 99147-42169, stated that I am a resident of the above address and do domestic work, I have 02 children. The elder girl Jasmine Kaur is about 15 years old, who studies in class 11 at a private girls school, village Khiva, and the younger boy Pawandeep Singh, who studies in class 9. On 03.01.2023, no family member

was present in the house, so at around 12 noon, my daughter Jasmine Kaur went somewhere from our house and I myself searched a lot about her, but could not find any trace of her. but now I have come to know that my daughter Jasmine Kaur has been married to Kulwinder Singh alias Rang, son of Lahimbar Singh, resident of village Billi Chao, Police station Sadar, Nakodar district, Jalandhar has taken away my daughter by alluring her. In the kidnapping of my daughter, Kulwinder Singh @ Goga and his brother, sister of Manpreet Kaur alias Manu, wife of Baljinder Singh alias Baghi, resident of Bhodipur, police station Sadar Nakodar, sister Harpreet Kaur @ Bhalo wife Sonu resident of Toot Kalan police station Sadar Nakodar sister Hekhi wife Vicky resident Kanya, Kala police station, Shahkot district, Jalandhar and Kulwinder Singh, brother-in-law of Ghori, Baljinder Singh alias Bagi, son of Balwant Singh, resident of village Bhodipur, Sadar Nakodar district, Jalandhar have full involvement. Who are not ready to tell anything about my daughter. Appropriate legal action should be taken against the above mentioned persons. The statement has been written, read and heard, okay. RTI Daljit Kaur (Thumb) Verification Jaswinder Singh ASI Police Station Sadar Nakodar District Jalandhar Date 04.01.2023”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 07.01.2023. Learned counsel for the petitioner has further argued that there was consensual friendship between the petitioner and the victim which was not to the liking of the victim and hence the petitioner has been falsely implicated in the present case. Learned counsel for the petitioner has further argued that the testimonies of the material private witnesses i.e. mother of the victim/complainant as also the victim stand recorded as PW-4 and PW-5 respectively. Learned counsel has further contended that the petitioner is a young man aged about

21 years and his further incarceration is not called for in the facts and circumstances of the case. 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 07.01.2023 whereinafter investigation was carried out & challan was presented on 21.02.2023. Total 15 prosecution witnesses have been cited out of which 5 witnesses including the victim and the mother of the victim already stand recorded. Thus, culmination of the trial will take its own time. The rival contention of the learned counsel for the parties; regarding there being consensual friendship between the petitioner and the victim and the same being not to the liking of the family of the victim; 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 trail. 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 young man aged about 21 years with no criminal antecedents. As per the custody certificate dated 08.04.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 01 year and 03 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 in the facts and circumstances of the present case.

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/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

April 09, 2024
poonam

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