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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8962-2024 (O&M)

Date of Decision: 08.07.2024

JASBIR SINGH

.. Petitioner

Vs.

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. L.M. Gulati, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Mr. Ashish Nagar, Advocate for the complainant.

...

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.249 dated 03.12.2023, registered for the offences punishable under Sections 363 and 366-A read with Section 34 IPC at Police Station Ajnala, District Amritsar.
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 Buta Singh son of Shingara Singh resident of village Sarang Dev Basti Jaggiwal, P.S. Ajnala District Amritsar, age 45 years, Mobile No. 9781675693. Stated that I am resident of above mentioned address and do labour work. I have got 6 daughters and one son who is youngest. My daughter Rajbir Kaur aged 16 years had done her Matric from Govt. High School Jafarkot and she do household work. On 1.12.2023, the whole family after having meals, slept and my daughter Rajbir Kaur was sleeping in a separate room. About 2 AM, I got up and found that my daughter was not present in bed. I informed my wife Manjit Kaur and started searching our daughter Rajbir Kaur. However, we did not trace her. We enquired from relatives but did not trace her. Today now I came to know that near our house Jasbir Singh son of Sampuran

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Singh resident of Sarang Dev Basti Jaggiwal, who runs medical shop and who is married and has one son, used to keep a bad eye on my daughter Rajbir Kaur since somedays and I am fully sure that my daughter Rajbir Kaur has been enticed away by said Jasbir Singh on the pretext of marriage and has taken her somewhere with the connivance of his father Sampuran Singh son of Saun Singh. In this regard, today I alongwith my elder brother Kashmir Singh son of Sohan Singh resident of Abadi Sohan Singh Balladbal, have come to the Police Station to inform, when you met me. Injustice has been caused to me. Kindly take strict action against Jasbir Singh son of Sampuran Singh. Statement given was read over and is correct. Sd/- Buta Singh. Verified by Sd/- Kashmir Singh Attested by ASI Rattan Singh, P.S. Ajnala, Dated 03.23.2023.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 21.12.2023. Learned counsel for the petitioner has relied, *in extenso*, upon order dated 06.12.2023 passed by this Court in CRWP-11749-2023, (*Rajbir Kaur and another Vs. State of Punjab and others*), an affidavit dated 15.12.2023 stated to have been sworn in by the victim as also the statement made by the victim under Section 164 of Cr.P.C., 1973 to argue that there was a consensual relationship between the petitioner and the victim which was not to the liking of the family of the victim & hence the petitioner has been falsely implicated into the FIR in question. Thus, the regular bail is prayed for.

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.

5. Learned counsel for the complainant has vociferously opposed the grant of regular bail to the petitioner by arguing that there are serious allegations against the petitioner, the affidavit dated 15.12.2023 alleged to have been sworn in by the victim is inconsequential in view of date of birth of the victim as reflected in the Aadhaar Card and the protection order dated

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06.12.2023 passed by this Court is inconsequential insofar as the criminal prosecution launched against the petitioner is concerned.

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

7. The petitioner was arrested on 21.12.2023 whereinafter investigation was carried out & challan was presented on 17.02.2024. Total 14 prosecution witnesses have been cited and culmination of the trial will, of course, take its own time. The rival contention of the learned counsel for the parties; regarding the veracity as also weightage required to their being consensual relationship between the petitioner and the victim; affidavit dated 15.12.2023 sworn in by the victim as also the weightage required to be attached to the protection order passed by this Court on 06.12.2023 in CRWP-11749-2023; 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 trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per the custody certificate dated 05.07.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 06 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.

8. 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 Ld. concerned

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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.

9. 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.

10. Ordered accordingly.

11. Nothing said hereinabove shall be construed as an expression of



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12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

08.07.2024

Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No