

2024:PHHC:043908

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-13782-2023 (O&M)

Date of decision: 02.04.2024

Sukhwinder Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Raj 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.91 dated 29.12.2021 registered for the offences punishable under Sections 346 (deleted) 363, 366, 376, 377 of Indian Penal Code, 1860 and Section 4 of the Prevention of Children from Sexual Offences Act, 2012 (added later on) at Police Station Morinda, District Rupnagar.

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

"Copy of the Statement, "Statement of unknown Gurdeep Singh son of Dharampal Singh resident of Bur Majra, Police Station Sadar Morinda, District Rupnagar aged about 40 years Mobile No. 98765-35904. Stated that I am resident of the aforesaid address and does the farming. I am married. My wife Hardeep Kaur is housewife. I have three daughters. My elder daughter is Jasmine Kaur whose date of birth and year is 12.12.2004 who is studying in 10 + 2 in Rajan Public School at Village Bur Majra.

Yesterday on 28.12.2021, she was present at home. In the evening on the terrace of the house, I was watching T.V. with my wife Hardeep Kaur and three daughters Jasmine Kaur, Sumanpreet and Rajneet. At about 07:30PM in the night, my elder daughter Jasmine Kaur came out from the terrace saying that she was going to bathroom and later on, she has not came back. I and my wife searched her in the home and neighbour, but she has not found. Till now, we are searching my daughter Jasmine Kaur at the relatives and area. But she couldn't be found. We have doubt that some unknown person has kept her in his custody. That my daughter is minor. I was going with my uncle's son Gursewak Singh to give information at the police station. You met near Kainaur Bus Stand. Statement is written and heard to be correct. Sd/- Gurdeep Singh. Statement approved by:- Sd/- Gursewak Singh. Verified by:- Lachhman Singh, ASI, 69 / FGS Police Station Sadar Morinda.”

3. Learned counsel for the petitioner has argued that the petitioner was arrested on 30.12.2021 whereafter he was granted regular bail on 08.02.2022 by the learned Additional Sessions Judge, Rupnagar. Thereafter, the petitioner was re-arrested on 20.04.2022 upon the offence of Section 376 of IPC having been invoked against the present petitioner. Learned counsel for the petitioner has further argued that there is no allegation whatsoever of misuse of the concession of regular bail granted to the petitioner from the period 08.02.2022 till 20.04.2022. Learned counsel for the petitioner has further referred, *in extenso*, to the statement made by the victim (when examined as PW-1) to say that no allegation of Section 376 of IPC have been made against the petitioner herein. Learned counsel for the petitioner has further submitted that there was consensual friendship between the petitioner and the victim which was not to the liking of the

family of the victim and hence the petitioner has been falsely roped into the present FIR. Learned counsel for the petitioner has further referred to CRM-M-13870-2024 to argue that the submission made before this Court on 28.04.2023 was on account of mis-communication. 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 initially arrested on 30.12.2021 whereinafter he was granted regular bail on 08.02.2022 by the learned Additional Sessions Judge, Rupnagar. Thereafter, upon invoking of Section 376 of IPC against the petitioner, he was re-arrested on 20.04.2022 & is in continuous custody since then. Challan already stands presented in the matter on 11.04.2022 and trial is underway. Total 23 prosecution witnesses have been cited out of which 7 witnesses including the victim, complainant/father of the victim and mother of the victim stand examined. The rival contention of the learned counsel for the parties regarding the weightage required to be attached to the testimony of the victim (when examined as PW-1) 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 remaining prosecution evidence. As per the custody certificate dated 01.04.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 02 years and 01 month & 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 02, 2024

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