

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-14663-2024(O&M)

Date of order: 03.04.2024

Surjit Kaur

.....Petitioner(s)

Vs.

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Shubkarman Kumar, Advocate
for the petitioner.

Ms. Aakanksha Gupta, AAG Punjab.

Nidhi Gupta, J.

Present is the first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.248 dated 26.12.2020 registered under Sections 376, 109, 363, 366 IPC (Sections 366-A, 370, 201, 120-B IPC and Section 4 POCSO Act and Sections 9, 10 and 11 of Prohibition of Child Marriage Act added later on) at Police Station Khilchian, District Amritsar (Annexure P1)

2. FIR in the present case was lodged on the basis of statement of father of the victim and the same reads as under:-

“Statement of Pargat Singh S/o Karam Singh R/o Kaler Ghuman aged 35 years P.S. Khilchian Tehsil Baba Bakala Sahib District Amritsar Mobile no. 6283517762; stated that I am a resident of abovementioned address and I do work of Mason (Raj Mistri). I have two children, one boy & one girl. My daughter Pooja Kaur aged 16-17 years is 8th class pass and she

now does the household work. On 25.11.2020 as per my daily routine, I went to my work, but when I returned home in the evening at 6:00 PM, my daughter Pooja Kaur was not present at home. I started searching for her at my relatives' place & also at other places but could not find her. She has been taken away by some unknown persons on the misleading pretext of marriage. Now I along with Sarpanch Hardev Singh S/o Sewa Singh R/o Village Kaler Ghuman, have come to the police station. My daughter Pooja Kaur may be searched and appropriate legal action may be taken against those unknown persons. I have got my statement written, which is read over to me, same is correct. Sd/- Pargat Singh, accompanied by Sarpanch Hardev Singh. Attested by Paramjit Singh SI, Police Station Khilchian, dated: 26.12.2020."

3. Learned counsel for the petitioner inter alia submits that a perusal of the FIR shows that the petitioner has not been named in the FIR. It is submitted that the petitioner has been falsely roped into the picture as she has been named in the disclosure statement made by the main accused Sukhbir Singh. However, the petitioner has no role to play in the present case. It is further stated that there were total 5 accused of whom one Karamjit Kaur has been acquitted by the learned trial Court vide judgment dated 20.12.2023 passed by learned Additional Sessions Judge (FTC), Amritsar. The petitioner is similarly placed as the said acquitted co-accused Karamjit Kaur. It is further submitted that other co-accused in the matter have also been granted regular bail by a Co-ordinate Bench of this Court vide order dated 13.02.2024 passed in CRM-M-48772-2023.

4. Per contra, learned State Counsel has opposed the prayer made on behalf of the petitioner and files custody certificate dated

02.04.2024, which is taken on record. As per the custody certificate, the petitioner has been in custody as under trial for 3 months and 28 days. Learned State Counsel on instructions from ASI Baljinder Singh submits that the victim in the present case was 16-17 years of age. It is submitted that the victim in her supplementary statement made under Section 161 Cr.P.C. has stated that she was forced by the petitioner to enter into marriage with the main accused Sukhbir Singh. FSL and DNA reports have come positive. It is submitted that the learned Additional Sessions Judge (Fast Track Court), Amritsar has rejected the application for regular bail made by the petitioner vide order dated 22.02.2024 (Annexure P2), and has observed as under:-

“6. In his disclosure statement, co-accused Sukhbir Singh has stated that his marriage was got solemnized with victim on 30.11.2020 and in her supplementary statement, victim has stated that her marriage was solemnized on 30.11.2020 at Gurudwara Sri Bhai Sukha Singh Ji, Ramdass by disclosing her name as Husanpreet Kaur daughter of Tarsem Singh, resident of Mansoor Kalan, who was identified by co-accused sarpanch Balwinder Kaur and parents of Sukhbir Singh and they along with applicant/accused were also present at the time of marriage, who have got her marriage solemnized with co-accused Sukhbir Singh forcibly. Applicant/accused has also played major role in the occurrence as she has forcibly got solemnized marriage of victim with Sukhbir Singh. At the time of kidnapping and committing rape on the victim, she was a child as defined under the POCSO Act as she was just 16-17 years of age, having been born on 15.08.2003. As per report of Forensic Science Laboratory, human semen present on the swabs stated to be of victim belongs to co-accused Sukhbir Singh.”

(Emphasis supplied)

5. Learned State Counsel further submits that charges were framed in the present matter on 02.03.2024 and the evidence is to

begin and next date of hearing for examination of witnesses is 09.04.2024.

Learned counsel further informs that the main accused Sukhbir Singh has been convicted vide judgment dated 20.12.2023 passed by learned Additional Sessions Judge (Fast Track Court), Amritsar.

6. No other argument is made on behalf of the parties.
7. I have heard learned counsel for the parties and perused the case file in detail.
8. Without commenting on the merits of the matter, however, keeping in view the totality of the facts and circumstances of the case including the role attributed to the petitioner and the seriousness of the allegations made against the petitioner to the effect that she had forced the minor victim to solemnize marriage with the main accused Sukhbir Singh; and marriage was solemnized in the presence of the petitioner, I find no ground is made out to grant concession of regular bail to the petitioner. Moreover, evidence is yet to commence, and material witnesses are yet to be examined.
9. In view of the above, I find no merit in the present petition, and the same is accordingly **dismissed**.
10. However, it is made clear that nothing stated above shall be construed as an opinion on the merits of the matter.
11. Pending application(s) if any also stand(s) disposed of.

03.04.2024

Sunena

Whether speaking/reasoned

Whether reportable

(Nidhi Gupta)

Judge

Yes/No

Yes/No