

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

209

CRM-M-15134-2024

Date of Decision: 03.04.2024

Mangal Singh @ Mottu

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Ishan Gupta, Advocate for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 73 dated 28.05.2023 registered under Sections 363 and 366-A IPC at Police Station Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib.

The aforesaid FIR was registered on the basis of statement of the complainant/father of the alleged victim, which is reproduced as under:-

“Statement of Gursewak Singh S/o Gurmukh Singh R/o Fattanwala, age around 50 years, Mobile No. 62846- 5665. Stated that I am resident of the above mentioned address and I have 04 children out of which two are sons and two are daughters. My one daughter is Kulwinder Kaur also who is

aged around 17 years. On the evening on 06.05.2023, I along with family had slept in house as usual. When we had got up in the morning on 07.05.2023 then we had seen that my daughter Kulwinder Kaur was not at home. About which when we had enquired then we got suspicious that Mangal Singh alias Motu S/o Garibu Singh R/o Lakhewali had made run away my daughter Kulwinder Kaur who is minor, in which Mangal Singh's family and relatives has helped. In this connection we I (Gursewak Singh) had given information at P.S. Sadar, Sri Muktsar Sahib also. But since it was not fully clear, we had not got registered any case in this regard with the Police. Due to which till now we had been searching for our daughter Kulwinder Kaur who could not be found. I fully believe that Mangal Singh alias Motu S/o Garibu Singh R/o Lakhewali has misled my minor daughter Kulwinder Kaur and had made her run away. In which Mangal Singh has been helped by his family and relatives. Therefore, action may be taken against aforesaid Mangal Singh alias Motu etc. and my daughter Kulwinder Kaur may be got recovered.....”

Learned counsel for the petitioner, *inter alia*, submits that the petitioner and the alleged victim were in a consensual relationship. At the time of alleged incident, the victim was 17 years and 09 months old. It is submitted that previously the petitioner and the victim had approached this Court by way of filing a writ petition bearing CRWP-5054-2023, seeking protection from the complainant/father of the victim who was against their relationship. In the said case, notice of motion was issued by a co-ordinate Bench of this Court vide order dated 24.05.2023 (Annexure P-2). Subsequently, the said writ petition was dismissed as

having been rendered infructuous vide order dated 24.08.2023 (Annexure P-3) as in the interregnum the petitioner was arrested. The prosecutrix in her statement (Annexure P-4) recorded under Section 164 Cr.P.C., has categorically stated that she is 17 years and 09 months old and she wants to marry the petitioner. She further stated that she will marry with the petitioner, after attaining the age of majority. Further, it is submitted that 04 co-accused of the petitioner/brothers of the petitioner have already been granted the concession of anticipatory bail. The petitioner has been in custody since 15.08.2023. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that petitioner be released on regular bail.

Per Contra, learned counsel for the State has filed custody certificate dated 01.04.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 07 months and 16 days. As per custody certificate, there is no other case against the petitioner. On instructions from ASI Ashok Kumar, learned counsel for the State submits that challan in the present case was filed on 13.10.2023 and the next date of hearing before the learned trial Court is 25.04.2024, for framing of charges. She further submits that the victim is presently in the custody of her parents.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case; including the custody period undergone by the petitioner and perusal of the custody certificate reveals that there is no other case against the petitioner; and also the fact that

conclusion of trial will take considerable time, and no useful purpose would be served by further detention of the petitioner. Thus, the present petition is **allowed**.

The petitioner-Mangal Singh @ Mottu S/o Garib Dass, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

03.04.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No