



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
202

CRM-M-17051-2024
Date of Decision: 21.05.2024

Harpreet Singh alias Happy

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Sukhbir Maandi, Advocate for the petitioner.

Ms. Aakansha Gupta, A.A.G., 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. 82 dated 05.07.2023 registered under Sections 363, 366-A IPC (lateron added offence under Section 376 IPC and Section 6 of POCSO Act, 2012) at Police Station Division E, District Police Commissionerate Amritsar (Annexure P-1).

Learned counsel for the petitioner *inter alia* submits that the present FIR has been registered on the basis of statement of complainant/mother of the victim, which reads as under:-

“Statement of Rajni wife of Paramjit Singh resident of House No. 723, backside Gurudwara Baba Budha Sahib, Basti Mithu, District Jalandhar, Aadhaar Card No. 987955705553, aged about 39 years, Mobile No. 8728886221, stated that I am resident of above noted address and doing the household work. I have four daughters, out of whom eldest is Muskan who is aged about 19 years, younger to her is Jashanpreet Kaur aged about 17 years, younger to her Jyoti aged about 11 years and youngest one is Sapna aged about 9 years. My husband is plying Auto and due to patient of diabetes cannot travel. On 01.07.2023, I along with my daughters Muskan and Jashanpreet Kaur came to Shri Darbar Sahib to pay



obeisance from Jalandhar to Amritsar at about 10:00, we reached at Shri Darbar Sahib, Amritsar and in the night, we sat in the Parikarma. At about 11:00 PM, my daughter Jashanpreet Kaur said that she has go to bathroom and then she gone and after waiting for a long time, she did not return. I have full confidence that my daughter Jashanpreet Kaur has enticed away by Harpreet Singh alias Happy son of Dilbag Singh resident of Village Thothian, District Amritsar on the pretext of marriage. I, my daughter Muskan and our known Jagjit Singh son of Inderpal Singh resident of House No. L2/285, near Sandhu Karyana Store, New Gurnam Nagar, Sultanwind Road, Amritsar searched her on our behalf but she did not found. Today, I along with my daughter Musktan and Jagjit Singh present before you, I produced the certificate regarding the date of birth of my daughter lateron. My above said statement has been recorded by you, heard and found to be correct. Action be taken.”

Learned counsel for the petitioner states that at the time of commission of alleged offence, the age of the victim was 17 years and 6 months. It is stated that the petitioner and the victim were in a love affair and wanted to solemnize marriage. Accordingly, the petitioner and the victim had filed a protection petition bearing **CRWP No. 6863 of 2023** titled as **‘Harpreet Singh and another vs. State of Punjab and others’** before this Court which was allowed by coordinate Bench of this Court on 13.07.2023 (Annexure P-2). Subsequently, the victim was recovered from the custody of the petitioner on 26.07.2023 whereupon her first statement under Section 164 Cr.P.C. was recorded in which she had given a statement in favour of the petitioner and had not supported the prosecution case. However, thereafter the custody of the victim was handed over to the complainant and the second statement under Section 164 Cr.P.C. was recorded in which the victim had supported the prosecution case. Thereafter vide rapat No. 41 dated 01.08.2023, offence



under Section 376 and Section 6 of POCSO Act were added to the present FIR. Learned counsel states that there is an unexplained delay of four days in filing the present FIR. As per the statement of the complainant, the victim had gone missing on 01.07.2023; whereas the FIR was registered only on 05.07.2023.

Learned counsel for the petitioner further informs that in the meantime, the victim has died in mysterious circumstances while in custody of the complainant. It is stated that the petitioner has been in custody since 03.08.2023. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that the present petition may be allowed and the petitioner be released on regular bail.

Learned counsel for the State files custody certificate dated 20.05.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 09 months and 17 days. Learned counsel, on instructions from ASI Baljit, informs this Court that challan has been filed in the present matter on 05.09.2023 and charges have been framed on 01.11.2023. It is submitted that out of 19 witnesses; only one official witness has been examined so far and as such the complainant is yet to be examined. It is confirmed that the victim has died while in the custody of the complainant. Learned counsel further informs that the FSL in the present case is negative and by way of MLR; it is reported that though there is no sign of penetration but possibility of sexual assault cannot be ruled out.

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 and the custody period of 09 months and 17 days undergone by the petitioner as an undertrial; and the fact that there is no other case pending against the petitioner as evident from the custody certificate placed on record; as also the fact that the 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-Harpreet Singh alias Happy S/o Dilbag Singh, 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.

21.05.2024

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No