



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-23185-2024
Date of decision: 14.05.2024

Sukhwinder Singh

...Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vivek Singla, Advocate,
for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

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.189 dated 28.09.2021 registered for the offences punishable under Sections 363, 366-A of IPC (Sections 368, 376 (2) (n)/34 of IPC, Section 6 of the Prevention of Children from Sexual Offences Act, 2012 & Section 9 of the Child Act were added later on) at Police Station Odhan, District Sirsa.

2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“To S.H.O. Sir, Police Station Odhan, Sir, the request is that I am Resham Singh S/o Kripal Singh, caste Sikh, resident of Chanu village. About 6-7 days ago, I had come to village Banwala with my family to pluck narma crop. Two daughters, wife and a son had also come with me. My younger daughter namely Kulbinder



Kaur who is about 16 ½ years old. At night my daughter slept with us after having dinner and when it was almost midnight when I opened my eyes at 1:00, I saw that my daughter was not on her cot. It tried to find my daughter nearby at night but could not find her. An unknown person seduced my daughter and took her away. My daughter should be searched and recovered. I have come to the police station today on 28.09.21 to submit the application. My daughter should be recovered. My daughter's height is 5 feet, wheatish, slim and agile body and she is wearing a purple suit and white slippers. SD/- Resham Singh. Applicant Resham Singh S/O Kripal Singh Village Chanu (Punjab), at present r/o Banwala Mob. 9646955434 Dated 28-09-21."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 21.04.2022. Learned counsel for the petitioner has further argued that the petitioner & the victim had, in fact, eloped away & had remained together in Rajasthan for a period of about 07 months. Learned counsel for the petitioner has further submitted that such consensual friendship of the petitioner & the victim was not to the liking of the family of the victim and hence the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has further argued that two co-accused, namely, Rinku and Gurjeet have been granted the concession of anticipatory bail by the Sessions Court, Sirsa. 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 arrested on 21.04.2022 whereinafter investigation was carried out & challan was presented on 19.07.2022. Total 22 prosecution witnesses have been cited out of which only 02 prosecution witnesses, namely, the victim & the Investigating Officer of the case have been examined. Thus, culmination of the trial will take its own time. The rival contentions of the learned counsel for the parties; regarding the weightage required to be attached to the factum of the victim and the present petitioner living together for about 07 months in Rajasthan, as to whether there was any consensual friendship between the petitioner & the victim which was not to the liking of the family of the victim; 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 13.05.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 02 years & 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.



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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/Illaqha 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

May 14, 2024

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