

2024:PHHC:001781

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-29077-2022

Date of decision: 09.01.2024

Gurvinder Singh @ Manga

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. S.S. Gill, Advocate for the petitioner.

Ms. Mahima Yashpal DAG Haryana.

SUMEET GOEL, J.

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.337 dated 22.08.2021, registered for the offences punishable under Sections 363, 366-A, 376(3) IPC and Section 4 of the POCSO Act, 2012 at Police Station Rania, District Sirsa.

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

"To the Police Post Incharge, Jeevan Nagar, Sir, It is requested that I Gurjant Singh son of Harjit Singh Mzhabi Sikh, am permanent resident of Sant Nagar. I have three children. Eldest son Akashdeep Singh, younger to him Jashanpreet Kaur and younger to her is Hasanpreet Singh. My minor daughter Jashanpreet Kaur without informing went from the house on 22.08.2021 at about 2.30 AM. We have doubt that Gurvinder Singh @Manga son of Bohar Singh resident of Sangha has by alluring her and deceiving her of marrying eloped from the house. The date of birth of my minor daughter is 18.03.2007 whose age is about 14 years. My minor daughter Jashanpreet Kaur is dressed in yellow colour T-Shirt and Blue Lower Pent and Hawai Chappal in the Feet. Her height is about 4 feet. My minor daughter be recovered and justice be given by taking action against the accused. With thanks. SD Gurrjant Singh Applicant Gurjant Singh son

of Harjit Singh resident of Sant Naga Mo. 7028035135 7206898531 Dated 22.8.21."

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated; a perusal of statement of the prosecutrix recorded under Section 164 of Cr.P.C. on 23.08.2021 shows that the prosecutrix had come to meet the petitioner of her own accord and she was interested herself in running away with the petitioner; after investigation of the case, challan was presented on 22.10.2021 and the prosecutrix also stands examined on 22.03.2022.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. A perusal of the statement made by the prosecutrix under Section 164 Cr.P.C. reflects that a wrong act was committed with the prosecutrix despite her refusal, it further indicates that she had come to meet the petitioner on her own accord & thereafter it was the prosecutrix who insisted to run away with the petitioner. Of course, this aspect would be gone into by the learned trial Court at the time of final arguments during trial keeping in view that the prosecutrix was aged about 15 years and 04 months at the time of alleged offence. The prosecutrix had refused, in the presence of her mother, to get her medical examination done when taken to CHC, Ellenabad. Challan was presented on 22.10.2021 wherein total 24 prosecution witnesses have been cited and the prosecutrix already stands examined. As per the custody certificate dated 05.01.2024 submitted by the

learned State counsel, the petitioner has undergone incarceration for more than 02 years and 04 months and is not involved in any other case. No tangible material has been brought before this Court to indicate likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. Hence, in my considered opinion of this Court, further detention of the petitioner is not warranted.

8. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. 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/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

9. 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.

10. Ordered accordingly.
11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

January 09, 2024
Ajay

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