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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision:21.02.2024

Jugesh Kumar @ Yogesh Kumar

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Tarun Deora, Advocate for the petitioner.

Mr. Anup Singh AAG Punjab.

SUMEET GOEL, J. (Oral)

Status report by way of affidavit of Mohit Aggarwal, Deputy Superintendent of Police (City-1), District SAS Nagar has been filed in Court. The same is taken on record.

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.0011 dated 30.01.2022, registered for the offences punishable under Sections 363, 366, 376(3), 328, 120-B of IPC and Section 6 of POCSO Act at Police Station Mataur, District SAS Nagar.

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

"Stated that Rajeshwari Wife Late Narehs Pal Resident of Village Jagdaspur Tehsil Case District Bareilly Police Station Sarli U.P. Presently, Resident of Room No. 27 3rd Floor House No. 795 Village Mataour Sector 70, Mohali age about 40 years, mobile phone number: 9041229568 stated that I am a resident of the said area and do cleaning work in houses. My husband died a long time ago. I have been living in the said school for a long time with my son Sanjay and daughter Parvati who is 14 years old and studies in class VII. On 26.01.2022, at around 8:30 PM, my daughter Parvati went from the shop to get goods etc. from home

and did not return later regarding which I have been inquiring about on my own till now from the neighborhood and relatives, which I could not find. Now I have come to know that my daughter Parvati has been taken away by some unknown boy under the guise of marriage. Please search for my daughter and help in finding her and take legal action against the unknown boy. The statement was written and heard. Declarant SD/-RTI Rajeswari Attested by-HC Gurmeet Singh 680/SAS Police Station Mataur Date 30.01.2022 Action Police Proceedings: On Date 30.01.2022 Constable Amandeep Singh No. 1883 along with I HC. PHG Dharamraj No. 30876/R and female constable Palwinder Kaur No. 1811 in search of bad elements were present near Gol Chak village Mataur then Rajeswari came to me HC wife late Naresh Pal resident of village Jagdaspur Tehsil Amla District Bareilly Police Station Saroli U.P. presently Resident Room No. 27, 3rd Floor House No. 796 Village Mataur Sector 70 Mohali recorded her statement which was written letter by letter and was read out to her who after hearing his statement and accepted it as correct put her right thumb under the statement. Which I HC attested. The statement is found to be a crime under 363, 366 IPC. The statement for registration of case against the said accused is being sent by hand through PHG Dharmaraj no. 30876 and being sent to the police station. File number should be made known by filing a case. Special reports should be issued and senior officers should be notified by through telephone. I HC along with fellow employees is left for further investigation at the spot: Boundary: Gol Chowk Village Mataur Sector 71 Mohali AT:- 01:25 PM Correct - HC Gurmeet Singh 680/SAS Police Station Mataur dated 30.01.2022", who is in police station on receipt today but charged against an unknown person. After being registered and completed, the completed copies of the FIR are being filed as special reports in the service of senior constable Vikram Singh 1260/SAS Nagar honorable high officers and District Magistrate Sahib. The case file is being sent by hand through HC Gurmeet Singh 680/SAS near PHG Dharmaraj No. 30876/R for further investigation”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 01.04.2022 and the investigation already stands completed. Learned counsel has further argued that the victim (when examined as PW-2) has turned hostile and, therefore, in all likelihood, trial

is not likely to culminate into conviction of the petitioner. In this view of the matter, learned counsel has prayed for grant of regular bail.

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. Learned State counsel seeks to place on record custody certificate dated 21.02.2024 in Court, which is taken on record.

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

6. The petitioner was arrested on 01.04.2022 whereinafter investigation was carried out and challan was presented on 29.06.2022. Total 20 prosecution witnesses have been cited wherefrom the victim already stands examined as PW-2 and the mother of the victim/complainant stands examined as PW-1. The rival contention of learned counsel for the parties, regarding the weightage required to be attached to the testimony of the hostile victim, shall be seen 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 case of either parties. Further, no tangible material has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 21.02.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 01 year and 10 months & is not shown to be involved in any other case. Suffice to say, further detention of the petitioner as an undertrial is not warranted.

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7. 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/Illaq 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.

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11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

February 21, 2024
Ajay

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