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

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**CRM-M-33525-2024 (O&M)
Date of decision: 19.07.2024**

Pritam Singh @ Kaka **...Petitioner**

Versus

State of Punjab **...Respondent**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Sandeep Kumar Yadav, Advocate
for the petitioner.

Mr. Satjot Singh, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant one is the second petition which has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 102 dated 27.06.2019, registered under Sections 363, 366-A of IPC at Police Station Sadar Kapurthala, District Kapurthala. The first petition, bearing CRM-M-11405-2024, was dismissed by this Court on 08.05.2024.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered under Sections 363 and 366 of IPC on the basis of statement recorded by complainant 'R' (name withheld) alleging therein that his minor grand daughter 'M' (name withheld) was studying in 9th Class and had come to visit him during vacations on 10.06.2019. On 26.06.2019, at about 1:00 PM, she left the house without informing anybody. He had made inquiries at his own level and had come to know that she had been enticed away by the petitioner on the pretext of

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performing marriage with her. She had also taken away an amount of Rs. 2,80,000/- kept in the almirah of his house along with her belongings. After registration of FIR, investigation proceedings were initiated. The petitioner was arrested. The statement of victim under Section 164 of Cr.P.C. was recorded wherein she disclosed that she had gone with the petitioner at her own accord. They had firstly gone to Kapurthala then to Ferozepur and then they had gone to Delhi wherein they stayed in a Gurdwara for about ten days. She also disclosed that the petitioner had left her in the Gurdwara and had gone away. Thereafter, she had resided with one of her friends namely 'J' (name withheld). In December, 2022, she had met with one Pardeep and got married to him and was staying with him. Since the petitioner could not be apprehended, therefore, proceedings under Section 82 of Cr.P.C. were initiated against him and he was declared a proclaimed person on 10.10.2020. He was arrested on 07.01.2024. Presently, he is facing trial for commission of the aforementioned offences.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The victim has now been examined before the trial Court and while appearing as PW-1, she has deposed that she gave birth to a boy from the loin of her husband Pardeep Kumar and she was living happily with him. She has further deposed that the petitioner has never done any wrong act with her and has never kidnapped her for the purpose of performing marriage with her. She was declared hostile and even during her cross examination, she stated on the same line. Learned counsel for the petitioner has argued that the petitioner is in custody since 07.01.2024 and in

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view of the changed circumstance, no useful purpose would be served by keeping him in custody anymore. It is, thus, urged that the petition deserves to be allowed.

4. *Per contra*, learned State counsel has opposed the prayer of the petitioner on the ground that there are serious and specific allegations against him but he could not dispute the fact that the victim has turned hostile and has totally exonerated the petitioner from commission of the subject offences.

5. I have heard learned counsel for the parties and have also gone through the material placed on record very carefully.

6. The allegations against the petitioner are that he had taken away the prosecutrix who was about fifteen years old as on 10.06.2019, out of lawful guardianship of her parents/guardian on the pretext of performing marriage with her and after keeping her with him about twenty days, he had left her at a Gurdwara. The prosecutrix was not recovered from the custody of the petitioner but from the custody of Pardeep Kumar with whom the prosecutrix had subsequently performed marriage. The first petition filed by the petitioner seeking regular bail has been dismissed by this Court as mentioned above. The present petition has been filed on the ground that the victim, while appearing as PW-1 before the trial Court, has not supported the prosecution version and has been declared hostile. A perusal of his sworn deposition, a copy of which has been placed on record, shows that she has totally exonerated the petitioner from commission of the subject offences. The petitioner is in judicial custody since 07.01.2024. The trial is likely to time. Keeping in view the circumstances emanating from the record, I am of the

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considered opinion that no useful purpose would be served by keeping him in custody anymore.

7. Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

19.07.2024

Waseem Ansari

(MANISHA BATRA)

JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes