



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
217

CRM-M-32619-2024
Date of Decision: 16.07.2024

Manpreet Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr.Rupender Singh Rana, Legal Aid Counsel
for the petitioner.

Ms. Aakanksha Gupta, A.A.G., Punjab.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 2nd petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 59 dated 17.09.2019 registered under Sections 363, 366-A IPC and 8 of POCSO Act (added later on 376, 120-B IPC and Section 6, 17 of POCSO Act) at Police Station Taragarh, District Pathankot.

Learned counsel for the petitioner *inter alia* submits that in the present case, FIR was registered on the basis of statement of the father of the victim, which reads as under:-

“Statement of Kuldeep Raj s/o Ram dhan Resident of Gurdaspur Bhayia, Police Station Taragarh, District Pathankot aged about 41 years, stated that I am resident of above said address and work as confectioner (Halwai). I have 3 children, out of which I have a daughter Anamika aged about 15 years old-she studies in 10th standard at Government High School Sherpur Gidharpur. Yesterday on 16.9.19 at around 4 in the morning, my daughter Anamika has left the house without informing me or any of my family members, whose search has been done by me with my brother in law namely kastoori Lal and my younger sister



namely Anita - from where I came to know that some unknown person lured my daughter by making false promise of marriage. My daughter is still minor. Mr. Jatin s/o Bodh raj Resident of baddhiyal who studies with my daughter in 10th standard has full involvement in luring and enticing her and with his patronage an unknown person taken my daughter. Jatin has told us verbally that a boy has lured her for marriage is having a mobile number 8872256180 and Mobile number of Jatin resident of bhariyal is 7814550876. My Daughter's Animika Date of birth is 15/11/2004. So, it is requested to take action against above said persons.”

Learned counsel for the petitioner submits that as evident from the above, the petitioner has not been named in the present FIR. The date of alleged incident is 16.09.2019. It is submitted that the victim was never in the custody of the petitioner and was recovered from outside Darbar Sahib, Amrtisar on 17.09.2019.

Learned counsel for the petitioner further submits that there are glaring discrepancies in the testimony of the victim (Annexure P-2). Even otherwise, as per the cross-examination of the victim (at page No. 17 of the paper-book), she has admitted therein that she had accompanied the petitioner from Amritsar Railway Station; that she was not earlier known to the petitioner; and had never seen him prior to the incident; and that she went to the Golden Temple for paying obeisance alongwith the petitioner. It is further submitted that the parents of the alleged victim have turned hostile. Learned counsel for the petitioner further points out that the petitioner has been in custody since 19.09.2019 as undertrial. 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 opposes prayer made on behalf



of the petitioner and submits that the victim is only 15 years old. In her statement under Section 164 Cr.P.C., as well as in her testimony as PW5, the victim had supported the prosecution case. The FSL report in the present case is positive. Learned counsel for the State files custody certificate dated 16.07.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 4 years, 9 months and 26 days. Learned counsel, on instructions, informs that out of 17 witnesses, 10 witnesses have been examined so far.

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 including: a) the custody period of 4 years, 9 months and 26 days undergone by the petitioner as an undertrial; b) no other case pending against the petitioner as evident from the custody certificate placed on record; c) as also the fact that material witnesses have been examined; d) and out of 17 witnesses 10 witnesses have been examined so far and, therefore, 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-Manpreet Singh S/o Sukhwinder Singh @ Surinder 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.

16.07.2024

Divyanshi

(NIDHI GUPTA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No