

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

219

CRM-M-34609-2023
Date of decision: 14.03.2024

Gurjeet Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Amit Arora, Advocate,
for the petitioner.

Mr. Anup Singh, AAG, Punjab.

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.289 dated 03.08.2022, registered for the offences punishable under Sections 363, 366-A, 120-B of IPC, 1860 (Section 376 of IPC & Section 4 of the POCSO, 2012 added later on and Section 120-B stands deleted) at Police Station Goindwal Sahib, District Tarn Taran.

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

“The present FIR was registered on the statement of complainant Jaswinder Singh s/o Karnail Singh r/o Hansawala. In his statement recorded with the police, he stated that he is having six children. His daughter/prosecutrix is aged about 17 years and is studying in 8th class in Govt. Sen. Sec. School Goindwal Sahib. Adjoining his house, the house of Satnam Singh @ Satta is situated, who is married at village Sanghe and Gurjit Singh s/o Lakhbir Singh (applicant/accused) is on visiting terms at his house and the sister of the Gurjit Singh namely Rupinder Kaur is

married with Ravi s/o Amrik Snigh. On 15.07.2022, at about 4 PM, his daughter went to Gurudwara Sahib but she did not return back home. They kept on searching for his daughter but was not able to trace her out. Thereafter, he came to know that Gurjit Singh had enticed away his daughter/prosecutrix on the pretext of marrying with her and took her to an undisclosed place. On the basis of this statement, the present case was registered against the accused.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 04.08.2022 & trial is underway wherein the material witnesses have turned hostile. Learned counsel for the petitioner has further referred, *in extenso*, to the statements made by PW-1 (victim), PW-2 (father of the victim/complainant) as also PW-3 (mother of the victim) to argue that since the material witnesses have turned hostile hence the trial is not likely to culminate into conviction. Learned counsel for the petitioner has further argued that there is no medical evidence available on record to substantiate the cause of the prosecution. 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 04.08.2022 whereinafter investigation was carried out & challan was presented on 01.10.2022. Total 16 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of the learned counsel for the

parties regarding the weightage required to be attached to the testimony of the hostile witnesses 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 perceptible 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 13.03.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 01 year and 07 months & is not shown to be involved in any other case. Suffice to say, in the facts and circumstances of the present case, further detention of the petitioner as an undertrial is not warranted.

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/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.

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

(SUMEET GOEL)
JUDGE

March 14, 2024
poonam

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