

2024:PHHC:010447

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

212

CRM-M-36067-2023
Date of Decision: 25.01.2024

Pinkal

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUMEET GOEL

Present:- Mr.S.S. Maini, 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.24 dated 26.01.2023, registered for the offences punishable under Sections 363, 366-A & 376 of IPC and Section 6 of the POCSO Act, at Police Station City South Moga, District Moga.

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

“Statement of Sonu son of Mam Chand, r4esident of House Number 39, Ward Number 40, Blmiki Colony, Near Chokha Palace, Moga, Tehsil & district Moga, aged approximately 45 years, education 3 ^ (rd) class pass, Mobile Phone Number 62395-73504. It is stated that I am resident of the above said address and I am a temporary employee of Muncipal Corporation, Moga. That my daughter named Sumiti, which is 10 ^ (th) classes pass and her date of Birth is 11.6.2005, aged approximately 17 - 1/2 years (Seventeen and half years and she was rendering the private job in Jawahar Nagar, Street Number 08, Punit Bansal dental clinic, Moga. That on 22.1.2023, she had gone from the

house in the clinic of Punit Bansal dental clinic for doing the work and finishing her own work, she had to come at house 6 in the afternoon time, and reaching in the Punit Bansal Clinic, confirmed from doctor Sahib Punit Bansal and he said that, finishing her work, the girl Sumiti, she had gone from the clinic at 1.00 A.N. and I enquired about her surrounding area and I do not know anything about her. My daughter Sumiti did not arrive back at home till date. But now I have come to know that any boy named Pinkal, bluffing my daughter Sumiti for solemnizing the marriage with her, he has instigating her and has kidnapped her at anywhere and his full address is Pinkal son of Omesh Dass resident of Street Number 05-3E, Ganga Nagar, Rajasthan. My daughter, which is yet minor and her age is less than 18 years. The above said boy used to commit the bad activity with my daughter Sumiti and he can commit any wrong and untoward incident. For telling you about the above said incident, today I have come to you in the police Station City South. My daughter may be searched and the appropriate legal action may be taken against the accused person. The statement is recorded to you, read over and admitted to be recorded correctly, I have put up my signatures underneath the same statement. Sd/- Sonu above said, supported by SD/- Raju son of Vir Singh resident of village Singhawala, district Moga. Attested. SD/- Jasvir Kaur Police Station City South Moga, Date: 26.01.2023. Police proceedings:- Today, I, ASI along with Senior Constable Ranjit Kaur No. 1463/Moga and Senior Constable Harjit Singh Number 1333/Moga, we were present in the police station and then Sonu son of Mam Chand resident of House Number 39, Ward No. 40, Balmiki Colony near Chokha Palace, Moga, Tehsil & District Moga along with Raju son of Vir Singh resident of village Singha Wala, Police Station City Moga, appeared before me. Somu recorded his statement to me and reading over his statement, to him and admitting correct to his statement, he put up his signatures in Hindi language and Raju son of Vir Singh supported his statement and Raju put up his signatures in English language underneath the statement. From the statement of the deponent, prima facie found the commission of offence under Section 363, 266 - A I.P.C. Hence this written statement is being sent to the police station, M.H.C. Guredeep Singh Number 1446/Moga, Police Station Moga City South for the registration of the case against Pinkal son Omesh Dass, resident of Street Number 05-3E, Ganga Nagar, Rajasthan. Registering the case, the number of case/ FIR may be intimated. The special reports may be issued and may sent to the senior officers. I, ASI along with the

colleague employees and with the complainant of the case, departing on the spot for conducting the further investigation. SD/- Jasvir Kaur L/ASI Police Station City Moga, date 26.01.2023. Today place at P.S. South City Moga at 5.55 PM. Today on receipt of the written statement in the police station, registered the above said case under the afore mentioned Sections against Pinkal son of Omesh Dass resident of Street Number 05-3E, Ganga Nagar, Rajasthan and the original written statement along with the copy of FIR, is being handed over to L/ASI Jasbir Kaur Number 4 724/Moga for conducting the further investigation of this case. Issuing the special reports, the same are being sent Duty Mgistrate Sahib and to the senior officers through S/Ct Sukhjinder Singh Number 1329/Moga (by hand). The information is being supplied at PCR Moga. Compliance report Number 25 dated 26.02.2023, Time at 6.40 PM.”

3. Learned counsel for the petitioner has argued that after the petitioner having been arrested on 27.01.2023, investigation was carried out; challan was presented & trial is underway. Learned counsel for the petitioner has further referred to the testimonies of the prosecutrix (PW-1), father of the prosecutrix (PW-2) as also the mother of the prosecutrix (PW-3) to contend that the prosecutrix had in fact left the house on her own & had travelled a long distance (about 8 hours) from Moga to Sriganganagar in Rajasthan. Learned counsel has further argued that the case in hand is one of consensual relationship and the petitioner has been falsely roped in because of the family not accepting the marriage/relationship of the petitioner & prosecutrix. 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 accused is in custody since 27.01.2023 & as per the custody certificate dated 24.01.2024, he has undergone a period of more than 1 year & has not shown to be involved in any other case. The rival contentions regarding the weightage required to be attached to the testimonies of the prosecutrix, her father as also her mother will be gone into during the course of trial. This Court does not deem it appropriate to delve deep into the allegations lest it may prejudice the rights of either parties. 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 considered opinion of this Court, further detention of the petitioner 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 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.

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

(SUMEET GOEL)
JUDGE

January 25, 2024
poonam

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No