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

CRM-M-34933-2024 (O&M)

Date of decision : 20.08.2024

Jatinder @ Rajinder @ Joni

... Petitioner

Versus

State of Punjab

...Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Manish Gilhotra, Advocate for the petitioner.

Mr. P.S. Bhandari, AAG Punjab for the respondent.

ALKA SARIN, J. (ORAL)

1. This is the second petition under Section 438 of the Code of Criminal Procedure, 1973 (for short 'CrPC') for grant of anticipatory bail to the petitioner in FIR No.10 dated 20.01.2023 under Sections 365, 342, 376(2) (n), 323 and 34 of IPC registered at Police Station City Sri Muktsar Sahib, District Sri Muktsar Sahib, Punjab. The first petition filed by the petitioner being CRM-M-35977-2023 was dismissed as withdrawn vide order dated 09.11.2023.

2. The case of the prosecution in a nutshell is that the victim/complainant lodged a complaint alleging therein that she has studied upto 10+2 class. Sagar, aged 18 years, resides opposite to her house and for the last 4-5 months she had been talking to him over the mobile phone. On 25.12.2022 her mother left her at the house of her Aunt (Maasi) at Muktsar. When she spoke to Sagar on the mobile, she told him that she has come to the house of her Aunt and asked him not to call on her mobile phone. On

01.01.2023 at about 04.00 p.m. when she was alone in the house, Sagar and his mother Manju, uncle Jatinder alias Joni and Shekhar came there in a car and forcibly took her away to Ahuja Colony, Abohar where Sagar told her that he wants to marry her and they forcibly kept her confined at the said place. From 01.01.2023 till 15.01.2023 Sagar committed rape upon her against her wishes and thereafter on 16.01.2023 she left Abohar alone and went to Ganganagar where she narrated the entire incident to her family.

3. Learned counsel for the petitioner states that the allegations against the petitioner are only of forcibly abducting and confining the victim. The same allegations are against co-accused Manju, who is mother of main accused Sagar and she has already been enlarged on regular bail under Section 439 CrPC vide order dated 25.05.2023 passed in CRM-M-25704-2023. He further contends that the matter stands compromised between the co-accused Sagar and the victim and in that regard the victim had sworn an Affidavit and thereafter the main accused Sagar was released on anticipatory bail under Section 438 CrPC vide order dated 16.07.2024 passed in CRM-M-20628-2024. Hence, he prayed for grant of anticipatory bail to the petitioner also.

4. On the other hand, learned State counsel has submitted that the victim in her statement under Section 164 CrPC recorded before the Illaqa Magistrate has fully corroborated the case of the prosecution and that challan against co-accused Manju has already been presented in the Court and after framing of charge the same is pending for 30.08.2024 for evidence of the prosecution. He prayed for dismissal of the present petition.

5. Heard.

6. The FIR in the present case was registered on 20.01.2023 and the first petition of the petitioner for grant of anticipatory bail being CRM-M-

35977-2023 was dismissed as withdrawn vide order dated 09.11.2023. The allegations against the petitioner are of abducting the victim so as to enable co-accused Sagar to commit rape upon her. Co-accused Manju, against whom similar allegations are there, was enlarged on regular bail under Section 439 CrPC and now challan against her already stands presented in the Court and is pending for evidence of the prosecution.

7. In view of the above, the present petition is disposed off with a direction to the petitioner to surrender before the Trial Court/Illaqa Magistrate concerned within a week from today and in case he does so and moves an application for grant of regular bail, the Trial Court/Illaqa Magistrate concerned shall decide the said application on the same day, subject to its satisfaction and in accordance with law.

20.08.2024
Ankur

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO