

CRM-M-37467-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-37467-2023

Date of decision:08.02.2024

Jaspreet Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Amandeep Chhabra, Advocate for the petitioner.
Mr. Hemant Aggarwal, 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.184 dated 15.11.2022, registered for the offences punishable under Sections 363, 366-A, 120-B IPC and Section 376 IPC (added later on) and Section 4 of POCSO Act 2012 (added later on) at Police Station Sadar, Bathinda District Bathinda.

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

"Statement of Sadhu Ram S/o Bhagat Ram, R/o Jassi Poh Wali, P.S. Sadar Bathinda, District Bathinda, aged about 40 years, Mob. No.75279-75120, stated that I am resident of abovementioned address and doing agriculture work. I have 3 children, out of which 2 are daughters and one son. My elder daughter is studying at Village Kotakpura of my sister-in-law (Sali) and my younger daughter Kiran Devi whose date of birth is 24.01.2007, was used to study from home. On 12.11.2022 in night, we all family after taking meals got sleep. When on 13.11.2022 at 5 am, we wake up, then saw that my daughter Kiran Devi was not present at her bed, to whom we search nearby places, but we did not found anything about her and till now, we searched our daughter Kirna Devi at our relatives places and other known persons places and now we during inquiry, we got to know that my daughter Kiran Devi has been enticed away by Jaspreet Singh S/o

T.T. Singh of my village on the pretext of marriage. I got to know that persons reside in our neighbor namely Sukhpal Sharma S/o Ved Parkash Sharma and Anita W/o Sukhpal Sharma usually called my daughter Kiran Devi to their house and after calling the Jaspreet Singh also to their house, they made their conversation. He enticed away my daughter Kiran Devi on the pretext of marriage and by keeping her in dark. Therefore, legal action be taken against them. Statement is written, heard and is correct. Sd/- Sadhu Ram above said Identified Sd/- Charanjit Kaur W/o Vash Dev R/o Mehma Sarja, attested Sd/- Dharamvir Singh ASI 1490/BTA Incharge Police Post Kontsmir, P.S. Sadar Bathinda dated 15.11.2022”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 16.11.2022 and the investigation in the case stands completed. Learned counsel for the petitioner has further referred, *in extenso*, to the testimony of PW-1 (victim) as also PW-2 (father of the victim/complainant) to argue that the star prosecution witnesses have not supported the case of the prosecution & hence in all likelihood, the trial is not likely to culminate into conviction of the petitioner. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 07.02.2024 in Court, which is taken on record.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. After the arrest of the petitioner on 16.11.2022, investigation was carried out whereinafter challan was presented on 13.12.2022. Fifteen prosecution witnesses have been cited and culmination of the trial will take

its own time. The material/star prosecution witnesses already stand examined. The rival contention of learned counsel for the parties, regarding the weightage required to be attached to the testimonies of PW-1 (victim) as also PW-2 (father of the victim/complainant), will 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 case of either parties. As per custody certificate dated 07.02.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 01 year and 02 months & is not shown to be involved in any other case. Further, no perceptible material has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the remaining prosecution evidence. In the entirety of facts and circumstances of the case, further detention of the petitioner as an undertrial is not warranted.

7. In view of above, the present 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/Illaqa 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

February 08, 2024
Ajay

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