

CRM-M-39870 of 2023

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

210

CRM-M-39870 of 2023

DATE OF DECISION :- 14.05.2024

Sandeep @ Nagar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**Present:-** Mr. Damanjeet Bhoriwal, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

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.20 dated 27.02.2023, registered for the offences punishable under Sections 328/342/363/366-A/34 of IPC at Police Station Hisar, District Hisar.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

To, The SHO, P.S Women Police Station, Hissar. Subject: Application against 1. Kalia son of sher singh r/o New Ekta Nagar, Gangwa, Hisar. 2) Sandeep r/o Ekta Nagar, Gangwa Hisar. 3) Subhash r/o Dhanapura, Bhiwani regarding inducing and abduction of the minor daughter of the applicant from her house with intention to do wrong act and for administrating intoxicants to the daughter of applicant and recovery of the daughter of the applicant in intoxicated condition. Sir, I, Jaibir son of Sube Singh am resident of New Ekta nagar, Hisar. Sir, It is requested that I am Jaibir S/o Sube Singh, resident of New Ekta Nagar, Hisar and live happily with my seven children at



my home in New Ekta Nagar Hisar. That in the intervening night of 23rd-24th between 12 o'clock in the night and 01:00 am in the morning of 24th, there was a lot of noise around my house, due to which the applicant woke up and the applicant started looking here and there and started checking outside his house, then there was no one there. At this applicant checked inside his house, applicant did not find his daughter Pooja in his bed, then the applicant was shocked and when the applicant looked in the other room, his daughter Pooja was not found there also, on which applicant concern started increasing and applicant woke up his family members. Applicant asked about his daughter from other family members, but no one knew anything. The applicant woke up his neighbor and started making inquiries and on seeing the applicant SO worried, the younger daughter of the applicant told around 5 am in the morning that on the day of February 23, Pooja was talking to Kalia, who has been living at distance of 2-3 houses alongwith his parents. Hearing this we got suspicious and we went to Kalia's father Sher Singh's house between 5 to 6 in the morning for enquiry, then applicant came to know that Kalia was also missing from the house and Sher Singh was not disclosing whereabouts of his son. More people gathered and when everyone created pressure, Kalia's brother-in-law Sandeep, who lives in the same house, told that Kalia is hiding at his maternal uncle Subhash's house in Dhana Pura, Bhiwani with the applicant's daughter. Applicant along with some of his relatives and Sher Singh and his wife left for Dhana Pura and after reaching there searched the house, one of the rooms was locked, then at the behest of Sher Singh, Subhash opened the lock and Kalia was drinking liquor inside room and daughter of applicant was sleeping. We took Pooja back in an inebriated condition but the applicant's daughter continued to sleep even after coming back. On 25 February 2023, when applicant tried to wake up her daughter Pooja then she did not wake up and



today on 27.01.2023 she was able to talk properly and she started saying that she was given some intoxicant. We have come to know that Kalia is a drug addict and also consumes smack etc. If a dope test is done for him, it will be clear the he is addict. Kalia has taken the applicant's daughter under her control by seducing her. The applicant's daughter is still a minor and is unable to think for herself. Therefore, I humbly request you with folded hands, keeping in view the above matter 1 investigation should be done against all the accused and strict legal action should be taken to bring me justice.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 16.04.2023. Learned counsel for the petitioner has further argued that the petitioner has been falsely implicated in the FIR in question and he was the brother-in-law (Jija) of the main accused namely Kalia who is alleged to have kidnapped the victim. Learned counsel for the petitioner has further argued that all the private/material witnesses stands examined. 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 14.05.2024 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. The petitioner was arrested on 16.04.2023 whereinafter investigation was carried out and challan stands presented on 20.05.2023.

Total 12 prosecution witnesses have been cited out of which 4 prosecution



witnesses including the material/private witnesses namely the victim as also complainant/father of the victim stands recorded and culmination of the trial will take its own time. The rival contention of learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question as he was brother-in-law (Jija) of the main accused namely Kalia; 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 tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 14.05.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 01 year and 28 days & is not shown to be involved in any other case.

Suffice to say, further detention of the petitioner as an undertial is not warranted in the facts and circumstances of the case.

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/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

14.05.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No