

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-40492-2023
Date of decision: 16th May, 2024

Moti @ Billo

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Liaqat Ali, Advocate for the petitioner.
Mr. A.S. Samra, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in FIR mentioned below:-

FIR No.	Date	Police Station	Sections
173	22.06.2022	Rama Mandi, District Police Commissionerate, Jalandhar	363 and 366-A of IPC, 1860 (Sections 376 and 120-B of IPC added later on)

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was initially registered under Sections 363 and 366-A of IPC on the basis of statement recorded by the complainant ‘A’ (name withheld) alleging therein that on 20.06.2022, at about 9:00 PM, the victim ‘K’ (name withheld) who was his fifteen years old daughter had left home to bring some goods from the nearby shop but did not return. He raised suspicion that she had been enticed away by someone



on the pretext of performing marriage with her. Investigation proceedings were initiated. On 02.08.2022, the complainant gave information to the police regarding receipt of the some calls on the mobile phones of brother and father-in-law of the complainant and also disclosed a number from which the victim had called the father-in-law of the complainant and she seemed to be quite frightened. The phone numbers so disclosed were taken into surveillance and the mobile phone number 8699135272 was found to be used by the present petitioner. She was apprehended on 03.08.2022. On interrogation, she suffered a disclosure statement to the effect that on 20.06.2022, her brother-in-law Rodu @ Jsbira had informed her about having a custody of a girl. On her asking, accused Rodu had brought the victim who was that girl to her village and then, she had bargained with Rodu who demanded a sum of Rs.25,000/- for getting the victim married with the divorcee son of the petitioner. She also disclosed that she had got performed the marriage of her son Vikram with the victim and they lived like husband and wife at her house till 01.07.2022. When she received a call from the police making inquires about the victim, then feeling scared, she had sent the victim to Delhi by bus by giving her a sum of Rs. 400/- and did not know about her whereabouts. During the course of further investigation, the victim was traced to Nirmal Chhaya Institute situated in Delhi. Her custody was taken. Her statement under Section 164 of Cr.P.C. was recorded. She was medically examined. Offences under Sections 370-A, 376 and 120-B read with Section 4 of POCSO Act were added. Rodu and Vikram were nominated as co-accused. Accused Rodu was arrested. Presently, the



petitioner along with accused Rodu is facing trial for commission of aforementioned offences. The petitioner had moved an application for grant of bail before the Court of Additional Sessions Judge, Jalandhar which was dismissed vide order dated 16.09.2022.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that no case of commission of offences punishable under Sections 363, 366 and 366-A of IPC was made out against her as the prosecutrix in her statement recorded under Section 164 of Cr.P.C. had herself admitted the factum of leaving her home at her own accord due to her being scolded by her father for talking with her boyfriend on phone. She had no hand in the kidnapping/abduction of the victim. She is in custody for more than one year. Investigation has since been completed. Trial is likely to take time. No useful purpose was going to be served by keeping her in custody anymore. Therefore, it is argued that the petition deserves to be allowed.

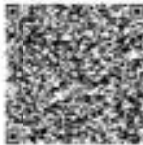
4. Status report has been filed by the respondent-State, as per which, the petitioner had taken the custody of the victim, from her brother-in-law by making payment of Rs. 25000/- to him for the purpose of performing the marriage of the minor prosecutrix with her divorcee son and for the purpose of her physical/sexual exploitation and had done the act of trafficking. She has also abetted the commission of offence of rape upon the victim by her son i.e. co-accused Vikram. The allegations against the petitioner are quite serious in nature. She had played an active role not only in receiving the custody of the minor victim by way of trafficking but also



abetted performance of her marriage with her son and also commission of acts of aggravated penetrative sexual assault. There are chances of her intimidating the witness. The period of incarceration of the petitioner is not a ground to extend benefit of bail to her. Hence, it is argued that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. The prosecutrix has since been examined before the Court. Copy of her statement has been placed on record and a perusal of the same reveals that she fully supported the prosecution version. Though from the allegations as levelled against the petitioner, no case for commission of offences punishable under Section 363 of IPC is made out as against the petitioner, however the allegation in the FIR and the sworn deposition of the prosecutrix, show that the petitioner procured the minor prosecutrix for the purpose of inducing her for illicit relationship with her son Vikram and committed offence of trafficking by purchasing the prosecutrix from her brother-in-law and facilitated commission of offence of rape/penetrative sexual assault upon her by her own son by getting the minor prosecutrix married with him, despite the fact that he was already a married person with one child. The allegations against the petitioner are serious in nature, keeping in view the gravity thereof, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, I am of the considered opinion that the petition does not deserve to be allowed. Hence,



the petition is dismissed.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

8. Since the main petition has been dismissed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

16th May, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |