

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.39764 of 2024
Date of decision : 27.8.2024

Raja Singh @ Gaggu	Petitioner
Versus	
State of Punjab	Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Ashish Gupta, Advocate and
Mr. Varun Gupta, Advocate, for the petitioner
Mr. Anup Singh, AAG, Punjab

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short ‘BNSS’) for grant of regular bail to the petitioner in case FIR No.47 dated 24.4.2023, under Sections 363 and 366-A of IPC (Sections 376, 366 and 328 of IPC added later on), registered at Police Station Sadar Kot-Kapura, District Faridkot.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

‘Statement of Gora Singh son of Kaka Singh son of Prem Singh, resident of Village Maur, District Faridkot, aged about 50 years, Mobile No. 83606-84855. Stated that I am resident of above said address and am doing the work of labourer. I have five children, out of these three are girls and two are boys. Both of my elder daughters are married and youngest amongst them is my daughter Miza, who is aged about 13/14 years and she stays at home. My wife had left me about 10 years ago. On 22.04.2023, both of my sons went to work and then my daughter Miza was alone in the house and in the house of my neighbor Gurbhej Singh son of



Sarup Singh, resident of Village Maur, his relative namely Soni Kaur wife of Lovi Singh son of Mukand Singh, resident of Village Asa Buttar, District Muktsar Sahib had come and my neighbor Gurbhej Singh and others had gone to do work and then in the evening, I came back to my house then my daughter Miza was not at home. I enquired about her from my neighbors and then I came to know that Soni Kaur had allured my daughter Miza and has taken alongwith her and in this regard, I had told to my neighbor Gurbhej Singh, who assured me that they will enquire about Soni Kaur and my daughter Miza with his relatives and I should not worry and my daughter will come back home. They had enquired amongst their relatives and other known persons but my daughter could not be traced from anywhere. Now on conducting enquiry, I have come to know that Gaggi Singh son of Chhota Singh @ Galoora, resident of Village Warring, Canal Colonies, District Muktsar Sahib and Soni Kaur wife of Lovi Singh son of Mukand Singh, resident of Village Asa Buttar, District Sri Muktsar Sahib have allured my daughter for committing some illegal activities and had kidnapped her and had taken her to unknown place. Legal action be taken against them. In this regard, I alongwith retired teacher Kuldeep Singh son of Karnail Singh, resident of Village Maur, District Faridkot were coming to the Police Station to give information and that you have met. I have got my statement recorded, heard the same and the same is correct. LTI above said Gora Singh. Verified by Sd/- ASI Lakhbir.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 21.11.2023. Learned counsel has further submitted that the prime prosecution witness namely the victim, as also the father of the victim/complainant have turned hostile and hence, the trial is not likely to culminate into conviction. Thus, regular bail is prayed for.

4. Learned State counsel 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 the regular bail. Learned State counsel seeks to place on record custody certificate dated 26.8.2024 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 21.11.2023. Challan in the case was presented wherein after charges were framed on 3.1.2024. The rival contention of learned counsel for the parties; regarding the weightage/veracity required to be attached to the testimony of hostile witnesses, namely the victim as also the complainant-father of the victim; 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 26.8.2024 filed by learned State counsel, the petitioner has suffered incarceration for a period of 6 months and 18 days. Though the petitioner is said to be involved in another FIR No.169 dated 16.11.2023, registered at Police Station Kot-Kapura Sadar, District Faridkot, Punjab, under Section 174-A of IPC & this factum, by itself, cannot be construed as sufficient to decline the concession of regular bail to the petitioner in the instant case.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of present 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 cell-phone 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.

(SUMEET GOEL)
JUDGE

27.8.2024
Ashwani