



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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CRM-M-41600-2024(O&M)
Date of Decision: 20.11.2024

Mandeep Singh

....Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Monty Goyal, Advocate for the petitioner.

Ms. Guramrit Kaur, DAG, Punjab.

NIDHI GUPTA, J. (ORAL)

CRM-43269-2024

This is an application under Section 528 BNSS, 2023 for placing on record the downloaded copy of order dated 19.10.2024 as Annexure P-5.

Notice of this application.

Ms. Guramrit Kaur, DAG, Punjab accepts notice on behalf of the non-applicant/State.

Heard.

Application is allowed and the downloaded copy of order dated 19.10.2024 is taken on record as Annexure P-5, subject to all just exceptions. Registry is directed to tag the same at appropriate place.

CRM-M-41600-2024(O&M)

The petitioner has filed the present 1st petition under Section



483 of The Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail in case FIR No. 57 dated 27.02.2024 (Annexure P-1) registered under Sections 363, 366-A IPC, (later on added 120-B IPC) at Police Station Rama Mandi, District Jalandhar, Punjab.

Learned counsel for the petitioner *inter alia* submits that the present FIR (Annexure P-1) was registered on the basis of the statement made by the mother of the victim which reads as under:-

"Statement of XXXX W/o XXXXX resident of Gali no.1, Ladhowali Police Station Rama Mandi Jalandhar aged about 38 years, Mobile No.XXXXX. That I am a resident of the above mentioned address and is a housewife and my husband XXXX XXXX drives small elephant truck (mini truck) I have two kids, elder daughter named XXXX aged about 16 years, who studies in class 10 in Oswald School, Ludhiana. Due to vacations, I got her home on 21.02.2024. On 24.02.2024 around 4.40 PM. a boy named Sandeep Alias Sunny S/o Harmesh Singh R/o Village Cheema, Tehsil Dharamkot, District Moga, intention of getting married took with the away my daughter. The since then I have searched my daughter a lot but could not get any information about my daughter XXX XXX. That the birth date of my daughter is 15.09.2007. That it is humbly requested that inquiry should be done and my statements are true."

Learned counsel for the petitioner submits that it is clear from a bare reading of the above FIR, that the petitioner has not been named therein. It is, only, on a subsequent statement made by the complainant, that the name of the petitioner was mentioned, and offence under Section 120-B IPC was added to the present FIR. It is submitted



that the petitioner is only the brother of the main accused, namely, Sandeep Singh; and that the petitioner has no role to play in the present incident. It is further submitted that the victim has been recovered and is in the care and custody of her mother. The victim in her statement under Section 164 Cr.P.C. has not supported the prosecution case and has in fact, stated that she had accompanied the main accused i.e. Sandeep Singh willingly.

Learned counsel for the petitioner also refers to order dated 19.10.2024 passed by learned Additional Sessions Judge, Jalandhar (Annexure P-5) whereby the main accused Sandeep Singh has been granted regular bail. It is also pointed out that on the same date i.e. 19.10.2024, the complainant had appeared before the learned trial Court and had furnished her affidavit to the effect that the present FIR was got registered by her under some misconception.

Learned counsel for the petitioner further submits that the petitioner has been in custody since 12.04.2024 as undertrial. No useful purpose would be served by further detention of the petitioner in custody. Thus, it is prayed that the present petition may be allowed, and the petitioner be released on regular bail.

Learned counsel for the State opposes prayer made on behalf of the petitioner and on instructions from ASI Jarmanjit Singh, submits that the victim in the present case is a minor girl being 16 years of age. It is stated that the victim has been recovered and is presently with her mother/complainant. It is further stated that the victim is presently



pregnant by 28 weeks.

Learned counsel for the State further submits that the petitioner has facilitated the commission of crime in-as-much as the petitioner has admitted in his disclosure statement that he had given money to the main accused. Learned counsel, however, affirms the fact that the victim in her statement under Section 164 Cr.P.C. has not supported the prosecution case and has stated that she has accompanied Sandeep Singh willingly.

Learned counsel for the State, on further instructions from ASI Jarmanjit Singh, submits that the challan in the present case has been filed on 09.06.2024; charges have not yet been framed; and the next date of hearing before the learned trial Court is 11.12.2024.

Learned counsel for the State files custody certificate dated 19.11.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 7 months and 6 days.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case including the fact that: a) the custody period of 7 months and 6 days undergone by the petitioner as an undertrial; b) no other case pending against the petitioner as evident from the custody certificate placed on record; c) charges have not yet been framed; and d) therefore, the conclusion of trial will take considerable time and no useful purpose would be served by further detention of the petitioner. Thus, the present petition is **allowed**.



The petitioner- Suraj S/o Shri Om Pratap, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

Pending application, if any, stands disposed of.

20.11.2024

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No