

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-41187-2024 (O&M)

Date of Decision: 02.09.2024

Vimla Devi

... Petitioner

VS.

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Punit Malik, Advocate for the petitioner

Mr. Chetan Sharma, DAG Haryana

Sandeep Moudgil, J.

Relief claimed

(1). This is second (2nd) petition under Section 439 CrPC for grant of regular bail to the petitioner in case FIR No.05, dated 08.01.2022, under Sections 370(5), 34 IPC (Section 81 of Juvenile Justice Care and Protection of Children Act, 2015 added later on), registered at Police Station DLF Phase-III, Gurugram, District Gurugram, Haryana.

Facts

(2). Facts as culminating in the FIR is reproduced as under:-

“SHO Sir, Police Station DLF, Phase-3, Gurugram, Sir, I Umesh Lohia son of Bishamber Lohiya resident of Nathupur, U/37, Road DLF, Ph. -3, Gurugram and doing a job as Driver. Today I was coming from my plot Khyala Rajori Garden, Delhi to my village Nathupur, Gurugram on vehicle HR- 55Y-1214. When I reached Dhola Kuan just them two ladies gave a signal for stop, on this, I. stopped my vehicle as both are being ladies and both were taking two child of 20 to 25 days on their own laps: One male person was also with them. They asked me where are you going. On this, I said that I was going to Shankar chowk. Then they asked me to drop them at Iffco Chowk, Gurugram, on this I replied that i can drop them on Shankar Chowk,

Gurugram. I permit to sit them in my vehicle, as my vehicle was taxi. When I moved my vehicle just away from Dhaula Kuan, they asked me to drop them at Alwar, Rajasthan. I demanded Rs. 3000/- but they told that they will give Rs. 4000/- if I dropped firstly at Alwar, Rajasthan and then you will drop Ghore Wala Temple, Raghbir Nagar, Delhi. I agreed for the same. I filled my vehicle with CNG from Kherki Daula and started for Alwar. In the way, they asked me to stop at chemist shop for taking milk and milk bottle. Then they purchased the milk. They all were talking by way of addressing to each other with a name Harjinder Singh, Surinder Kaur and Neha. A telephone call with one woman who stated that hours and they will reached Alwar in further she told that we will not stay in the night and we will come back. After some time she further received a phone then she demanded Rs. 3 lakhs. Both the women stated that they will not go to Alwar and started back to Gurugram. On their asking, I started to back Gurugram from Manesar Flyover underpass. I had suspicion that they had stolen the child. Then I told to them I want to purchase some articles from DLF, Phase-III, Molseri Metro Station Gurugram I at to and then drop you Delhi. I stopped my vehicle to Molseri Road Metro Station Gurugram and then I went Molseri Metro Station and then I went to. market. When I came back to market then I was having fully suspicious that they had stolen the infant child with an intention to sale the child. I had taken my vehicle with two women, one man and two: infant child In police station DLF Phase III, Gurugram. I have given my complaint in the police station, kindly may. take legal action against those persons. Sd/- Umesh..”

(3). The petitioner had approached this Court seeking regular bail in CRM-M-35094-2024 but the same was permitted to be withdrawn vide order dated 01.08.2024 since this Court was not inclined to accede to the submissions made in support of his prayer. Within less than 20 days, the petitioner again filed the present petition seeking similar prayer which has been listed today for hearing i.e. on 02.09.2024.

Submissions of the petitioner

(4). While reiterating his grounds/submissions made in the previous petition, learned counsel for the petitioner submits that he is in custody since 07.08.2022 and only 5 PWs have been examined till date. He further submits that petitioner's name does not figure in the FIR and has been implicated on the basis of disclosure suffered by the co-accused who alleged that the petitioner is involved in trafficking of minor children, however, during investigation, the prosecution could not establish the aforesaid attribution. It is averred that the whole case is a falsity inasmuch as the complainant himself has denied knowledge of the occurrence, in his cross-examination (Annexure P10).

(5). He claims parity with 5 other co-accused, namely, Palak @ Sarabjit Kaur, Pooja Nagpal, Meena Devi, Komal Raj @ Koli and Kanchan Kaur, who too were apprehended with infant child and were arrested on the basis of disclosure statement, have since been released on regular bail vide orders dated 25.01.2022, 28.01.2022 and 02.02.2022 (Annexures P3 to P5, respectively) as well as another co-accused Srikant and Anand Nat were also granted regular bail by this Court vide orders dated 28.02.2024 and 29.05.2024 (Annexures P8 & P9).

Stand of the State

(6). Learned State counsel has placed on record custody certificate dated 30.08.2024 which is taken on record, according to which, the petitioner has undergone 2 years and 24 days of custody. He submits that pursuant to submission of challan on 06.04.2022/02.09.2022, charges have been framed on 06.08.2022/17.01.2023 and out of total 46 PWs, only 5 PWs have been examined till date. He opposed the prayer for regular bail as pursuant to

dismissal of first petition, the petitioner has failed to assign any subsequent circumstances which led to filing of the present petition. He raised suspicion that if the petitioner is let off, he may abscond and again indulge in such crimes.

Analysis

(7). Heard learned counsel for the parties.

(8). The petitioner has been accused of being involved in a child trafficking racket. In November 2021, she allegedly purchased an 8-9 month old female child from co-accused Kulwant and Rajender Kaur for Rs.1,10,000, along with her sons Anil and Anand. However, they failed to sell the child and she was recovered from Anand's custody. Further allegations suggest that in December 2021, the petitioner, along with co-accused Heera Lal, Anil, and Srikant, purchased another female child, aged 2-3 months, from Kulwant and Rajender Kaur. This child is said to have been sold to Srikant, a resident of Jaipur, for Rs.1,60,000. Additionally, it is alleged that the petitioner and her co-accused purchased another girl child from Kulwant and Rajender Kaur in December 2021 and sold her to Komal Raj @ Koili for Rs.1,80,000. The investigation has uncovered a large-scale child trafficking racket.

(9). Admittedly, pursuant to dismissal of the earlier bail petition by this Court vide order dated 01.08.2024, wherein the petitioner had withdrawn the petition after arguing on merits, the counsel for the petitioner has failed to show any change of circumstances in between the period of 20 days of approaching again before this Court.

(10). Once that application/petition was rejected after considering the arguments raised on behalf of the petitioner, there was no question of granting a

similar prayer. That is virtually overruling the earlier decision without there being a change in the fact-situation much less a substantial one which has a direct impact on the earlier decision and not merely cosmetic changes which are of little or no consequence or mere iteration of the earlier petition. Between the two orders there was a gap of around one month only and it is nobody's case that during this period, any drastic change had taken place necessitating the release of the petitioner on bail. This view of mine find force from the decision of the Apex Court in **State of Maharashtra v. Buddhikota Subha Rao, (1989) Supp (2) SCC 605.**

(11). The present petition having been preferred in less than one month time without there being any substantial change of circumstances or subsequent development which has been candidly admitted by his learned counsel and also taking into consideration the gravity of offence involving illegal child trafficking, the chain connection of which requires to be unveiled, no ground for grant of regular bail is made out, at this stage.

(12). Dismissed.

(13). However, nothing expressed herein shall, in any manner, influence the trial Court.

02.09.2024
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No