

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.46662 of 2023
Date of Decision: 09.01.2024

Sukhwinder Singh @ Sukhi ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Amandeep Singh Samra, Advocate,
for the petitioner.

Mr. M.S. Nagra, AAG, Punjab.

MANISHA BATRA, J.

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

FIR No.	Dated	Police Station	Sections
33	01.05.2023	Sudhar, District Ludhiana	363, 366-A, 376 (3), 354-C of IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 (For short “POCSO Act”)

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on 01.05.2023 on the basis of statement recorded by the complainant “G” (name withheld) alleging therein that on the same day, his daughter “R” (name withheld) had left home for going to the school but within his sight, she was taken away by a youth in a vehicle bearing No.PB56E

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2020. The complainant rushed towards her school but found that she had not reached there. On making inquiry, it was revealed that she had been taken away by the petitioner in his Venue car on the pretext of performing marriage with him. A case under Sections 363 and 366-A of IPC was registered. Investigation proceedings were initiated. The petitioner was arrested on 01.05.2023. After recording statement of the prosecutrix and conducting her medico legal examination, offences under Sections 376 (3), 354-C of IPC and Section 6 of POCSO Act were also added. Presently, the petitioner is facing trial for commission of the aforementioned offences. He had moved an application for bail before the learned trial Court which had been dismissed vide order dated 05.09.2023.

3. Learned counsel for the petitioner has argued that there has been delay of 12 hours in lodging of FIR in this case which has remained unexplained. Infact the petitioner and the victim were in love affair. The present FIR was outcome of resistance on the part of the complainant who is father of the victim to the said relationship. The petitioner is in custody since long. The trial is likely to take time. Neither the victim herself nor her family members have made any deposition against the petitioner in the Court. With these broad submissions, he argued that it was a fit case for extending benefit of bail to the petitioner.

4. The argument as raised by learned State counsel, on the other hand, is that the petitioner had enticed away the minor victim out of the lawful guardianship of her parents and had committed rape upon her. The fact that the witnesses had turned hostile did not dilute the offence committed by the petitioner. Hence, he has urged that the petition does not

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deserve to be allowed.

5. I have heard learned counsel for the parties and have perused the record.

6. The petitioner is alleged to have kidnapped the minor victim out of lawful guardianship of her parents on the pretext of performing marriage with her and as per the allegations, he also committed the act of aggravated penetrative sexual assault upon her. However, copies of statements of the prosecutrix, her father i.e. the complainant, brother and of PW-2 Harjinder Singh their Village Sarpanch have been placed on record which reveal that in their respective sworn depositions, none of them have implicated the petitioner in the commission of the subject offences. The prosecutrix while saying something against the petitioner in her examination-in-chief has not supported the prosecution version during cross-examination. Keeping in view the nature of the evidence that has come on record, the period of incarceration of the petitioner and the attendant facts and circumstances but without meaning to make any comment on the merits of the case, I am of the opinion that the petitioner deserves to be given concession of bail at this stage. Hence, the petition is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court.

09.01.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No