

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

212

CRM-M-48772-2023

Date of decision:13.02.2024

Satnam Singh and another

....Petitioners

V/s

State of Punjab

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Manoj Kaushik, Advocate for the petitioners.

Mr. Anup Singh AAG Punjab.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioners in case bearing FIR No.248 dated 26.12.2020, registered for the offences punishable under Sections 363, 366 IPC and Sections 366-A, 370, 201, 120-B of IPC (added later on) and Section 4 of POCSO Act (added later on) and under Section 9, 10, 11 of Prohibition of Child Marriage Act (added later on) at Police Station Khilchian, District Amritsar.

2. The case set up in the FIR in question is as follows:-

“Statement of Pargat Singh S/o Karam Singh R/o Kaler Ghuman aged 35 years P.S. Khilchian Tehsil Baba Bakala Sahib District Amritsar Mobile no. 6283517762; stated that I am a resident of abovementioned address and I do work of Mason (Raj Mistri). I have two children, one boy & one girl. My daughter Pooja Kaur aged 16-17 years is 8th class pass and she now does the household work. On 25.11.2020 as per my daily routine, I went to my work, but when I returned home in the evening at 6:00 PM, my daughter Pooja Kaur was not present at home. I started searching for her at my relatives' place & also at other places but could not find her. She has been taken away by some unknown persons on the misleading pretext of marriage. Now I alongwith Sarpanch Hardev Singh S/o Sewa Singh R/o Village Kaler Ghuman, have come to the police station. My daughter Pooja Kaur may be

searched and appropriate legal action may be taken against that unknown persons. I have got my statement written, which is read over to me, same is correct. Sd/- Pargat Singh, accompanied by Sarpanch Hardev Singh. Attested by Paramjit Singh SI, Police Station Khilchian, dated: 26.12.2020."

3. Learned counsel for the petitioners has argued that the petitioners are in custody since 11.08.2023 and the investigation in the case has been completed. Learned counsel has further argued that the co-accused namely Karamjit Kaur was acquitted by the learned Additional Sessions Judge (FTC), Amritsar, vide judgment dated 20.12.2023 whereas the co-accused namely Sukhbir Singh was convicted vide judgment dated 20.12.2023 passed by learned Additional Sessions Judge (FTC), Amritsar for offences under Section 9 of PCMA and Section 363 of IPC. Learned counsel has further argued that the victim, when examined as a prosecution witness during the course of trial against co-accused Karamjit Kaur and Sukhbir Singh, had turned hostile. It is further argued that the father of the victim (when examined as PW-2) had also turned hostile in the said trial. It is thus submitted that, in all likelihood, the trial against the petitioners (herein) is not likely to culminate into conviction. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioners does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 12.02.2024 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 petitioners are aged persons stated to be about 55 years and 72 years old respectively. They were arrested on 11.08.2023 whereinafter challan was presented on 09.09.2023. Total 22 prosecution witnesses have been cited and the culmination of trial will take its own time. The rival contention of learned counsel for the parties, regarding the weightage required to be attached to the testimony of the victim as also the father of the victim (who have turned hostile during the trial of the co-accused), will be gone into during the course of trial in the present case. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the case of either parties. As per custody certificates dated 12.02.2024 filed by the learned State counsel, the petitioners have already suffered incarceration for a period of about 06 months and are not shown to be involved in any other case. Further, no perceptible material has been brought forward to indicate the likelihood of the petitioners absconding from the process of justice or interfering with the prosecution evidence. Suffice to say, further detention of the petitioners as an undertrial is not warranted.

7. In view of above, the present petition is allowed. Petitioners are ordered to be released on regular bail on their 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 petitioners shall remain bound by the following conditions:-

- (i) The petitioners shall not mis-use the liberty granted.
- (ii) The petitioners shall not tamper with any evidence, oral or documentary, during the trial.

- (iii) The petitioners shall not absent themselves on any date before the trial.
- (iv) The petitioners shall not commit any offence while on bail.
- (v) The petitioners shall deposit his passport, if any, with the trial Court.
- (vi) The petitioners shall give their cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change their cell-phone numbers without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioners 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 petitioners.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

February 13, 2024
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No