

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

227

CRM-M-49794-2023

Date of decision:08.02.2024

Mandeep Kumar

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. S.S. Sahu, Advocate for the petitioner.
Mr. Hemant Aggarwal, AAG Punjab.
Ms. Sunita Devi, Advocate for the complainant.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.125 dated 24.05.2022, registered for the offences punishable under Sections 363, 366-A, 376, 120-B IPC and Sections 3, 4, 6 of POCSO Act at Police Station City Malout, District Shri muktsar Sahib.

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

"Statement of Babu Ram S/o Ram Saroop R/o Indra Basti, Ward No. 10, aged 37 years, Mob. No. 8558885061 stated that I am resident of aforesaid address and do labour work. I have three children, 2 daughters and 1 son. All are minor. Seema Rani is the eldest aged 16 years, younger to her is Pinki who is 14 years old and the son is 12 years old. On 18.05.2022, as usual, I left home at 8 AM and came back to home at 2 PM for lunch. Then, I came to know that my minor daughter Seema Rani who works at Sneha Beauty Parlour has been taken away by Mandeep Kumar S/o Pappu Ram R/o Bhadolia wali, District Fatehabad (Haryana). He has taken her away on the pretext of marriage to her. They ran away on motorcycle Marka Platina which has no number plate on it. Till today, I went to searched out my daughter Seema Rani to relative and some known persons. But, I could not found her whereabouts. Today, I along with Mithan Kumar S/o Raj Kumar R/o Indra Basti, Malout came to report you, but you met me. Now, I am fully convinced that my daughter Seema Rani has been taken away by Mandeep Kumar alluring her on the pretext of

*solemnizing marriage to her. Strict Legal action against him may be taken.
Statement has been recorded, heard which is correct, LTI/- Babu Ram"*

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 25.05.2022 and challan already stands presented after completion of investigation. Learned counsel has further argued that the petitioner has been falsely implicated in the FIR in question on account of his friendly relations with the victim which was not to the liking of the family of the victim. Furthermore, learned counsel for the petitioner has also drawn the attention of the Court to orders dated 05.05.2023 and 12.06.2023 (Annexure P-2) passed in CRM-M-21675-2023 & CRM-M-29885-2023 respectively, whereby parents of the petitioner, who have also been involved in the present FIR, have been extended the concession of bail by the coordinate Bench of this Court. 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 petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 06.02.2024 in Court, which is taken on record. Learned State counsel, on instructions from H.C. Bohar Singh, has submitted that DNA report (from FSL, Mohali) has been received wherein human semen has not been detected.

5. Learned counsel appearing for the complainant submits that matter has been compromised between the parties and she has no objection in case petitioner be enlarged on bail.

6. I have heard counsel for the parties and have gone through the available records of the case.

7. The petitioner was arrested on 25.05 2022 whereinafter investigation was carried out and challan was presented on 18.08.2023. A total of 19 prosecution witnesses have been cited and the culmination of the trial will take its own time. The rival contention of learned counsel for the parties, as to whether the FIR in question has been registered on account of non-liking by the victim's family of her friendly relationship with the petitioner, 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 case of either parties. As per custody certificate dated 06.02.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 01 year and 08 months and is not shown to be involved in any other serious case. Further, no perceptible material has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. Suffice to say, further detention of the petitioner as an under-trial is not warranted.

8. 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 cellphone 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.

9. 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.

10. Ordered accordingly.

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

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

(SUMEET GOEL)
JUDGE

February 08, 2024
Ajay

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