

2024:PHHC:012288

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-54107-2023
Date of decision: 30.01.2024

Karni Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr.Rhythem Bajaj , Advocate,
for the petitioner.

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 petitioner in case bearing FIR No.35 dated 03.04.2023, registered for the offences punishable under Sections 363, 366-A IPC and Section 376 IPC and Section 4 of the POCSO Act are added later on, at Police Station Khuian Sarwar, District Fazilka.

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

“Statement of Sukhdev Singh son of Leela Singh son of Ajaib Singh, resident of Rukanpura, Khui Kher, aged about 38 years, mobile No.70090-73901, stated that I am resident of aforesaid address and labourer by profession. My marriage was solemnized with Sukhwinder Kaur daughter of Piara Singh, resident of Rukanpura Khui Khera, from whom I am having two children, son Arshdeep Singh and daughter, aged about 16 years, namely, Kulvir Kaur. Since last enough time I along with my family residing at village Rukanpura Khui Kheri, the village of my in-laws. My daughter Kulvir Kaur is studying in 10th class in Government School, Dharampura, whose exam for 10th class are

going on in Government Senior Secondary School, Waryamkhera. Today, on dated 03.04.2023, morning, I had dropped my daughter Kulvir Kaur, on my motor cycle, at about 9:00 O'clock in school at Waryamkhera for exam of mathematics. At about 01:00 PM (noon), when I went to bring Kulvir Kaur back, then, my daughter was not found, for whom I made inquiry on my own and I became sure that my daughter Kulvir Kaur, who is aged about 16 years, has been enticed away by Karni Singh son of Raju son of Manphool, resident of Dheengawali by alluring her for marriage and I along with my wife Sukhwinder Kaur was coming to inform you and you met and I have got recorded my statement with you , read over and it is correct. Action against the aforesaid accused Karni Singh may initiated. SD/- Sukhdev Singh, aforesaid, counter signed Sukhwinder Kaur wife of Sukhdev Singh, resident of Jhotaiyawali, presently resident of Rukanpura Khui Khera; attested Sd/- Devinder Singh SI, IC PP Patti Sadik, Police Station Khuian Sarwar, dated 03.04.2023”

3. Learned counsel for the petitioner has argued that after the arrest of the petitioner on 11.04.2023, investigation was carried out & challan stands presented. Learned counsel for the petitioner has further argued that during the course of trial, PW-1 (victim), PW-2 (complainant/father of the victim) as also PW-3 (mother of the victim) have turned hostile & thus, in all likelihood, the trial will not end into conviction. On the strength of these submissions, learned counsel has prayed for grant of regular bail to the petitioner.

4. Learned counsel for the State has opposed the present petition by arguing that the allegations raised are serious in nature and, thus, the petitioner does not deserve the concession of regular bail.

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

6. The petitioner, who is a young-man aged about 21 years, is in custody since 11.04.2023. As per the custody certificate dated 29.01.2024 filed by the learned State counsel, the petitioner is in custody for more than 9 months & is not shown to be involved in any other case. The rival contentions of the learned counsel for the parties regarding the weightage required to be attached to the testimonies of the witnesses, who have turned hostile, will be seen during the course of trial. This Court does not deem it appropriate to delve deep into the rival contentions, at this stage, lest it may prejudice the rights of the either parties. No tangible material has been brought before this Court to indicate likelihood of the petitioner absconding from the process of justice or interfering with the remaining prosecution evidence. Suffice to say, further detention of the petitioner as an undertrial is not warranted.

7. In view of totality of factual matrix of the present case, the instant 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/Illaq Magistrate.
- (vii) The petitioner 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 petitioner.

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

January 30, 2024
poonam

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