

CRM-M-53735-2023
Date of decision: 30th April, 2024

...Petitioner(s)

State of Punjab

...Respondent(s)

Present: Mr. R.S. Sekhon, Advocate for the petitioner.
Mr. A.S. Samra, AAG, Punjab.
Mr. H.S. Sidhu, Advocate for the complainant.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.

seeking regular bail in FIR mentioned below:-

FIR No.	Date	Police Station	Sections
28	03.03.2023	Valtoha, District Tarn Taran	363 and 366-A of Indian Penal Code, 1860 (for short 'IPC') (sections 366, 342 and 376 of IPC added later on)

2. Shorn of unnecessarily detail, the facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was initially registered under Sections 363 and 366-A of IPC on the basis of statement recorded by the complainant 'H' (name withheld) alleging therein that the victim 'M' (name withheld) who was his elder daughter had not returned home from the school on 27.02.2023. He raised suspicion that the petitioner who was having an evil eye upon her daughter had enticed her away on the

pretext of performing marriage. The victim was recovered from the custody of the petitioner on 05.03.2023. She was medically examined. As per the statement recorded by her under Section 164 of Cr.P.C., she had been taken away by the petitioner and his grand mother Darshan Kaur on 27.02.2023, on the pretext of taking some medicines for Darshan Kaur. She also alleged that she had been kept confined in a room by the petitioner and his grandmother. She was made to consume something due to which she did not remain in normal senses and on re-gaining consciousness, she had found herself to be suffering from abdominal pain and had managed to flee. On the basis of this statement and after her medical examination, offences under Sections 342, 366 and 376 of IPC were added. The present petitioner was arrested on 05.03.2023. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the petitioner is facing trial for the commission of the aforementioned offences. He had filed an application for grant of bail which was dismissed by the Court of Learned Additional Sessions Judge, Tarn Taran vide order dated 12.07.2023.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he is in custody since 05.03.2023 i.e. for a period of one year and about two months. The trial has commenced and is likely to take time. He has been falsely implicated in this case. There are no chances of his tampering with evidence or absconding. With these broad submissions, it is urged that the petitioner may be extended benefit of bail.

4. The petition has been resisted by respondent-State in terms of the status report filed by it wherein it has been alleged that the prosecutrix who is a minor girl was recovered from the custody of petitioner on 05.03.2023. The petitioner had enticed her away, kept her confined and had repeatedly ravished her. The material witnesses are yet to be examined. The prosecutrix has been partly examined and she had supported the prosecution version. There are chances of the petitioner's intimidating them if extended benefit of bail. Learned State counsel has argued that in view of the gravity of the allegations as levelled against the petitioner, he does not deserve to be given concession of bail.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. As per the allegations, the petitioner in connivance with his grand mother Darshan Kaur had taken the prosecutrix out of her lawful guardianship on 27.02.2023 and by making her drink some intoxicating substance, he had kept her confined in a room for a period of five days and had ravished her. The allegations against the petitioner are serious in nature. The prosecutrix is yet to be completely examined. There are chances of petitioner's intimidating the prosecutrix and other material witnesses, if extended benefit of bail. DNA report is still awaited. Keeping in view the gravity of the allegations as levelled against the petitioner, the part attributed to him, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion

that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
8. Since the main petition has been dismissed, pending application if any is rendered infructuous.

30th April, 2024

Parveen Sharma

1. Whether speaking/ reasoned

2. Whether reportable

[MANISHA BATRA]

JUDGE

:

:

Yes

Yes