

2024:PHHC:005019

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

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**CRM-M-54329-2023
Date of decision: 15.01.2024**

Kulwinder Singh @ Babbu

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr.Kuldip Singh, 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.28 dated 05.05.2023, registered for the offences punishable under Sections 363, 366-A IPC (Section 376 IPC & Section 6 of the POCSO Act added later on) Police Station, Khui Khera, District Fazilka.

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

“Statement of Surjit Singh son of Balvir Singh son of Assa Singh resident of Jandwala Kharta PS Sadar Fazilka now Dani village Patrewala PS Khui Khera District Fazilka aged about 45 years, Mobile No.81949-25584. Stated that I am resident of above said address and engaged in agriculture. My marriage was performed with Kuldeep Kaur daughter of Ram Singh resident of Sajrana prior to 25 years ago. We have three children, elder son Harmandeep Singh aged about 20 years, younger to him daughter Pardeep Kaur whose date of birth is 13.02.2007 and is studying in 10th standard in Government Senior Secondary

School Chuhriwala. Youngest than all Mehakpreet Kaur who is studying in 9th standard in this school. On 02.05.2023, my son Harmandeep Singh went to Delhi for work. I and my wife and daughters were at home then we went to sleep after having meals at night. I was sleeping outside in Verandah and my wife and both the daughters went to sleep inside the room. Then on 03.05.2023 at about 3:15 AM, my wife Kuldeep Kaur woke me up and told that our daughter Pardeep Kaur is not on her cot then we searched our daughter a lot and till now we were searching in our relations and nears and dears but could not find anything about our daughter. Now we came to know that Kulwinder Singh @ Babbu son of Balvir Singh whose Dhani is adjoining to our Dhani in the area of village Patrewala, who was usually on visiting terms at our home and also took milk daily from our home. He is married and he also has one daughter. He on the intervening night of 02.05.2023 and 03.05.2023, enticed away our daughter on the pretext of performing marriage with her. If any loss has been done to our daughter Pardeep Kaur then Kulwinder Singh would be responsible for the same. In this regard, I along with my brother Harmeet Singh was coming to police station to give information to you and you met. Our daughter be got recovered to us by conducting search of her and appropriate action be taken against Kulwinder Singh. Statement has got been recorded, heard which is correct. Sd/- Surjit Singh. Seconded Sd/- Harmeet Singh son of Balvir Singh resident of Jandwala Kharta. Attested Sd/- Balkaran Singh ASI PS Khui Khera dated 05.05.2023. Police proceedings: Today I ASI along with CT. Surinder Singh No.103/FZK, PHG Karnail Singh No.7090 was going to village Ghalu, Khipawali, Patrewala etc. regarding patrolling and checking suspicious persons and when police party reached at bus stop village Khipa Wali then Surjit Singh along with his brother Harmeet Singh present and Surjit Singh got his statement recorded in the presence of his brother Harmeet Singh, whose above said statement has been recorded according to his version and read over to him word by word and understood him, who after hearing and admitting his statement as correct appended

his signatures in Punjabi. His brother Harmeet Singh appended his signatures in English and I attest the same. From the statement, offence u/s 363, 366-A IPC is found to be made out.

Statement is being sent to police station through PHG Karnail Singh No.7090 for registration of FIR against Kulwinder Singh @ Babbu son of Balvir Singh resident of Dhani Patrewala. After registering the case, FIR number be intimated. Special reports be issued. PCR/FZK be informed.

along with fellow officials, complainant along with his brother left for the place of occurrence. Today at bus stand Khipawali at 3:30 PM, PS Khui Khera dated 05.05.2023. Today at police station: On receipt of above said statement to police station, after registering the above case under above offences against accused, copy of FIR along with original statement is being sent on the spot to ASI through PHG. After preparing the special reports, the same is being sent through S/CT Rajinder Singh No.773/Fazilka to Illaqa Magistrate and higher officials. PCR Fazilka is being intimated through email.”

3. Learned counsel for the petitioner argues that the petitioner was arrested on 06.05.2023; investigation was thereafter completed & trial is underway. The learned counsel has further argued that the prosecutrix (PW-1 Pardeep Kaur), complainant (PW-2 Surjit Singh), mother of the prosecutrix (PW-3-Kuldeep Kaur) and uncle of the prosecutrix (PW-4-Harmeet Singh) have all turned hostile. In this view of the matter, it is argued, that the trial is not likely to be culminated into conviction & hence no useful purpose would be served by keeping the petitioner behind the bars.

4. 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 accused was arrested on 06.05.2023 & after completion of investigation, challan was presented on 03.07.2023 wherein total 17 witnesses have been cited. 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 resiled will 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 rights of either of the parties. The petitioner is not shown to be involved in any other case as per the custody certificate dated 13.01.2024 filed before this Court.

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/Illaqa 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.

January 15, 2024

poonam

(SUMEET GOEL)

JUDGE

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No