

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

211

CRM-M-54789-2023

Date of decision:08.01.2024

Shamsher Singh

...Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Manu Loona, Advocate for the petitioner.

Mr. Anup Singh AAG Punjab.

SUMEET GOEL, J.

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.218 dated 02.08.2022, registered for the offences punishable under Sections 363, 366 IPC & 376 IPC (added later on) and Sections 3, 4 of Protection of Children from Sexual Offences Act (added later on) (hereinafter to be referred as ‘the POCSO Act’) at Police Station City Kharar, District SAS Nagar, Mohali.

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

“Statement of Parminder Singh Son of Kuldeep Singh Resident of House No. 197, Near Ravi Sound Shop Khanpur Kharar, Police Station City Kharar, District SAS Nagar, age about 40 years, mobile number 6284047388, 9988808218, stated that I am a resident of the said address and I run a tire puncture shop at Khanpur. I have two children, elder son namely Inderjit Singh, who is about 18 years old, and the younger girl is Narinder Kaur, who is about 15 years old. On 29-07-2022, it will be around 01:10 PM that my wife Gurinder Kaur went to cook food in the house like every day. At about 2:15 p.m. when my wife returned home after finishing her work and found that my daughter Narinder Kaur was

not at home. Which, I myself kept on searching for her in my relatives, but she as not found. Today I have come to know that Shamsher Singh of Darbar Chand resident of Nasirpur Jania, Police Station Kot Ise Khan, District Moga Bahla has enticed my daughter Narinder Kaur somewhere with him. I alongwith my wife Gurinder Kaur met you at near Bus Stand Kharar. Please take appropriate legal action against Shamsher Singh son of Darbar Chand, resident of Namirpur ania, Police Station, Kot Ise Khan, District Moga. I have recorded y statement to you, heard and its Correct.- Sd/- Parminder Singh”

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated at the instance of father of the prosecutrix; there is unexplained delay from lodging of the FIR on 29.07.2022 (the date when the prosecutrix allegedly went missing) till 02.08.2022 (when the FIR in question was registered); the petitioner is in custody since 27.07.2023 and challan has been presented after completion of investigation. Thus, it is argued that no useful purpose would be served by keeping the petitioner behind the bars.

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.

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

6. Investigation in the case is complete and challan has been presented on 27.09.2023 wherein 16 prosecution witnesses have been cited; the statement of the prosecutrix recorded under Section 164 of Cr.P.C. on 23.03.2023 does not reflect any allegation of forcible sexual assault; culpability of the petitioner *qua* offences under Section 376 IPC and

Sections 3 & 4 of POCSO Act is a question required to be gone into during the course of trial; this Court vide order dated 29.09.2023 passed in CRWP-11674-2022 has as an interim measure handed-over the custody of the prosecutrix to father of the present petitioner & there is no tangible material on record to reflect likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. In my considered opinion, further incarceration of the petitioner is not required in the factual matrix of the present case.

7. 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.

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 08, 2024
Ajay

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