



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

218

**CRM-M No.53615 of 2024
Date of decision : 5.11.2024**

Mani Kumar**Petitioner**
Versus
State of Punjab**Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Prince Sharma, Advocate, for the petitioner

Mr. Anup Singh, AAG, Punjab

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case FIR No.40 dated 7.4.2024, under Sections 363/366 of the IPC (Section 376 of IPC and 4 of POCSO Act, 2012 added later on), registered at Police Station Khem Karan, Tehsil Patti, District Tarn Taran.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'Statement of Malkit Singh, son of Gurcharan Singh resident of Ward No. 10, Khem Karan age about 40 years (Phone NO. 84270-15812) stated that I am a resident of the above said address and Labourer. I have three children, the elder son is Gurlal Singh age about 17 years, Xxxxxx Kaur age about 14 years is younger than him and youngest daughter namely Prabhjot Kaur age about 10 years. That on dated 05.04.2024 time about



08:00 AM, I went along with my wife Ranjit Kaur, son Gurlal Singh and daughter Prabjot Kaur at Baba Sher Shahwali, village Gharyala for bow down and my mother called on my phone and said that come very fast at home, we came back in our house at about 04:00 P.M. after bow down on Baba Sher Shahwali, village Gharyala, my mother was crying, we asked to her that what happened, then mother said that Xxxxxx Kaur daughter is not at home and on that time, we enquired from friends of my daughter and neighbor, but our daughter did not find. My daughter Xxxxxx Kaur age about 14 years who is studying in 8th class at Government Girls School, Khem Karan, her date of birth is 15.01.2010. We whole family was finding her in our known and relatives till today. Today we came before you to inform at police station. That any unknown person eloped my daughter Xxxxxx Keur age 14 years in illusion of marriage, her birth certificate, Aadhar Card and school certificate has been produced, Sd/- Malkit Singh, verified by Sd/ Amarjit Singh ASI of Police Station Khem Karan, District Tarn Taran dated 07.04.2024. Action of Police:- Today I ASI was at police station along with HC Balwinder Singh 106, L.CT Sarabjit Kaur 743, PHG Gajjan Singh 4094, then Malkit Singh son of Gurcharan Singh resident of Ward No. 10, Khem Karan came along with his wife Ranjit Kaur and he recorded his statement which was read over and explained to him, after admitting the correct, he signed in Punjabi Language below his statement which was attested by me. That as per the statement offence under section 363/366 IPC is found. The original statement has been handed over to HC Amrinder Singh MHC of police station for registration of F.I.R. The F.I.R. no. may be intimated, after its registration. Special reports may be issued and send to the senior officials & Ilaqa Magistrate. I ASI is going on the place of occurrence along with complainant and officials, SD/ Amarjit Singh ASI police station Khem Karan date 07.04.2024. Today at the jurisdiction of the Police Station Khem Karan at 10.20 A.M. Today At police station: At this time, after receiving the statement, the F.I.R. is registered and statement along with copy of F.I.R. is sending to ASI by handed of PHG Mohkam Singh 4225 for further investigation. That after preparing Special Report is sending before Senior Officers and Ilaqa Magistrate Patti by handed of CT Gurjant Singh 9/533. The information is providing to Control Room via E-Mail and wireless. Closing Rapt No. 21 time 11:00 A.M. dated 07.04.2024.'



3. Learned counsel for the petitioner has argued that the petitioner is in custody since 14.6.2024. Learned counsel has further submitted that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further submitted that the victim has not made any inculpatory allegations against the petitioner when her statement was recorded under Section 164 of Cr.P.C. Learned counsel for the petitioner has further submitted that the petitioner in fact has helped the girl in returning back safely to her home. Learned counsel has further argued that the petitioner is a young man aged 19 years with no criminal antecedents. Thus, regular bail is prayed for.

4. Learned State counsel 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 the regular bail. Learned State counsel seeks to place on record custody certificate dated 4.11.2024 in Court, which is taken on record.

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

6. The petitioner was arrested on 14.6.2024 whereinafter investigation was carried out and challan was presented on 8.8.2024. Total 24 prosecution witnesses have been cited and culmination of trial, but of course, will take its own time as the charges are yet to be framed. The rival contention of learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question, as to whether the petitioner in fact has helped the girl to return back home



safely and the weightage required to be attached to the statement made by the victim under Section 164 of Cr.P.C.; 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 trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 4.11.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of four months and twenty one days & is not shown to be involved in any other case.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the 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 cell-phone 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.

(SUMEET GOEL)
JUDGE

05.11.2024
Ashwani

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