



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

229 **CRM-M-53908 of 2024**
DATE OF DECISION :- 06.11.2024

Sahil **...Petitioner**

Versus

State of Punjab **...Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Vikas Gupta, Advocate for the petitioner.

 Mr. Anup Singh, AAG, Punjab.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No. 26 dated 14.02.2024, registered for the offences punishable under Sections 363/366-A of IPC at Police Station City Tarn Taran, 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 Jaskaran Singh @ Karan S/o Lakhwinder Singh @ Kala Singh resident of Gali Devian Ram wali, Mohalla Guru Ka Khuh, Tarn Taran, aged 25 years, Mobile No. 88729-64505 stated that I am resident of abovementioned address and is working in a private job at Chiman Footwear shop. That my uncle namely Rachpal Singh S/o Satnam Singh resident of Bhullar died and he had one daughter namely Rajbir Kaur, who was aged about 5 years and to whom we brought our home and we used to educate her. My uncle's daughter namely Rajbir Kaur, who is now aged about 15.5 years and is studying in 8th class at Mata Ganga Girls School, Tarn Taran. That on 12.02.2024 at 09 A.M., she went to school from home and later she did not return home. I am sure



that Sahil S/o Lakhwinder Singh resident of Street Devian Ram Wali Mohalla Guru Ka Khooh, Tarn Taran allured my uncle's daughter namely Rajbir Kaur, who is aged about 15.5 years on the pretext of getting marriage. Till now, we at our own level, tried to find our uncle's daughter, but we could not find her. Today I alongwith my mother namely Ramandeep Kaur were coming to police station for intimation, and you met us. Statement has been recorded. Action be taken. I am claimant. Sd/- Jaskaran Singh, RTI Ramandeep Kaur. Attested Sd/- Gurbhej Singh ASI, P.S. City Tarn Taran dated 14.02.2024.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 08.03.2024. Learned counsel for the petitioner has further argued that the victim had left the lawful guardianship of her family on her own accord and no *mens rea* can be attributed to the petitioner in the facts and circumstances of the case. In order to buttress his arguments, learned counsel for the petitioner has relied upon the dicta of the judgment of the Hon'ble Supreme Court in ***S. Varadarajan v. State of Madras (SC) 1965 AIR Supreme Court 942***. Learned counsel for the petitioner has further argued that the petitioner is a young man aged 20 years with no criminal antecedents. Learned counsel for the petitioner has further argued that a perusal of the statement made by the victim under Section 164 of Cr.P.C would reveal that nothing inculpatory has come out against the petitioner. In this view of the matter, learned counsel has prayed for grant of regular bail.

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. Learned State counsel seeks to place on record custody certificate dated 05.11.2024 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 08.03.2024 whereinafter investigation was carried out and challan stands presented on 08.05.2024. Total 18 prosecution witnesses have been cited out of which only 02 have been examined till date. Indubitably, the culmination of the trial will take its own time. The rival contention of learned counsel for the parties; as to whether the petitioner can be held liable for offences under Sections 363/366-A of the IPC in the facts of the case, the weightage required to be attached to the statement made by the victim under Section 164 of Cr.P.C & as to whether the petitioner has been falsely implicated into the FIR in question; 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 05.11.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of about 07 months and 27 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/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

06.11.2024
P.Singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No