

106

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-58792-2023 (O&M)

Date of Decision: 19.01.2024

SANJEEV KUMAR THROUGH GUARDIAN SUKKHAN @
SUKHLAL (FATHER)

.. Petitioner

Vs.

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Kanwar Inder Singh, Advocate for the petitioner.

Mr. Hemant Aggarwal, AAG, Punjab.

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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.108 dated 23.05.2023, registered for the offences punishable under Sections 363 and 366-A of IPC at Police Station Mahilpur, District Hoshiarpur.
2. The case set up in the FIR in question is as follows:-

“Statement of Muna Lal s/o Dharam Singh r/o Village Ghumiala PS Mahilpur aged about 55 years phone no. 97793-72232. Stated that I am resident of above said address and residing there along with my family for the last 30 years. I am having two daughters. My younger daughter Kusum aged about 14 years use to do household work. My elder daughter is married. On 9.5.2023 I along with my wife Suresh Wati went to village Mehmdowal Kalan for doing labour work. At that time my daughter Kusum was alone at home. When we return back from our work at about 7 PM, my daughter Kusum was not available at our house. We tried to locate her but to no avail. Sanjeev Kumar s/o Sukhlal r/o Ghumiala use to visit our house. Now I have come to know that above said Sanjeev Kumar has taken away my daughter on the pretext of marriage with her on 19.5.2023. Till date I had been searching for my daughter along with relatives but to no avail. My daughter is minor. Legal proceedings be started against

Sanjeev Kumar aforesaid. He be arrested and from him my daughter Kusum be recovered. Today I along-with my wife were going to the police station to got recorded my statement but you met me on the way and as such proceedings be started. Statement recorded by me is correct. LTI/- Muna Lal RTI/- Sureshwati attested SD/- Gurnek Singh ASI, PS Mahilpur dated 23.5.2023.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 25.05.2023; investigation has been completed and trial is underway. Learned counsel for the petitioner has referred to the statement made by the victim under Section 164 of Cr.P.C. to argue that the victim had left the house on her own accord and there is no allegation of sexual assault against the petitioner. It is further argued that the culmination of the trial will take its own time & hence the regular bail is prayed for.

4. Learned State counsel has filed a short reply by way of affidavit of Daljit Singh, PPS, Deputy Superintendent of Police, Sub-Division of Police, Sub-Division Garhshankar, District Hoshiarpur and the same is taken on record.

5. 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.

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

7. The accused stood arrested on 25.05.2023 and challan in the case was filed on 04.07.2023. 13 prosecution witnesses have been cited in total. The rival contentions regarding the victim going away from her house on her own accord will be seen during the course of trial. This Court does not deem it appropriate to delve deep into this aspect of the matter at this stage lest it may prejudice the rights of either of the parties. No tangible

petitioner absconding from the process of law or interfering with the prosecution evidence. As per the custody certificate dated 19.01.2024, the petitioner has suffered incarceration of about 8 months and is not shown to be involved in any other case. Therefore, in considered opinion of this Court, further detention of the petitioner is not warranted.

8. 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/Illaqha Magistrate.

(vii) The petitioner shall not in any manner try to delay the trial.

9. 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.
10. Ordered accordingly.
11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

19.01.2024

(SUMEET GOEL)
JUDGE

Jasmine Kaur

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No