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IN THE HIGH COURT OF PUNJAB & HARYANA

AT CHANDIGARH

CRM-M-63106-2023

Date of decision: 19th April, 2024

Muni

...Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Bhupinder Ghai, Advocate for the petitioner.
Mr. A.S. Samra, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in FIR mentioned below:-

FIR No.	Date	Police Station	Sections
224	30.09.2021	Division No.8, District Jalandhar	363, 366, 365-, 376-D and 354-A of Indian Penal Code, 1860 (for short 'IPC')

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of statement recorded by the complainant 'P' (name withheld) alleging therein that the victim 'M' (name withheld) was his sixteen years old niece residing with his family as his wife was pregnant. She had gone missing from the house on 30.09.2021 at about 3:00 PM. He raised suspicion that she was taken away by the Maskeen son of Roshan resident of Bhera, Nawanshehar on being induced to perform marriage with him. Initially, a case under Sections 363 and 366 of IPC was registered. Investigation proceedings were

initiated. The victim was recovered on 15.05.2023. Her statement under Section 164 of Cr.P.C. was recorded, wherein she disclosed that she had been taken away by six persons. She took the names of the petitioner and the co-accused and stated that she was given proposal of marriage with the co-accused Kareem and also levelled allegation that the co-accused Maskeen @ Raffi and Kareem had ravished her whereas co-accused Shah Ali had inappropriately touched her and that she was extended beatings by them. On the basis of this statement, offences under Sections 354-A, 365 and 376-D of IPC and Section 6 of POCSO Act were added. The victim was medically examined. The petitioner was arrested on 24.09.2023. The co-accused could not be arrested. After completion of investigation against the petitioner, challan was presented in the Court and presently, he is facing trial.

3. The instant petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. He is in custody since 24.09.2023. Neither the prosecutrix nor the complainant has implicated him in the commission of subject offences. Even otherwise, no allegations qua commission of offences under Sections 354-A and 376-D and Section 6 of POCSO Act have been levelled against him. Trial is likely to take time. His further detention would not serve any useful purpose. Therefore, it is argued that petition deserves to be allowed.

4. Learned State counsel on the other hand has argued that in view of the gravity of the offences, the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned

State counsel at considerable length and have gone through the record carefully.

6. The petitioner alongwith the co-accused is alleged to have kidnapped/abducted the prosecutrix by taking her out of lawful custody of her uncle. The copies of statements of father of the victim as well as the victim have been placed on record which show that neither of them implicated the present petitioner in commission of the offences for which he has been facing trial. Rather both of them are shown to have stated that they had never taken the name of the petitioner and he did not commit any wrong act whatsoever with the prosecutrix. Keeping in view the nature of the evidence which has come on record, in the form of testimony of the star witnesses of this case i.e. the victim and her father, the period spent by the petitioner in custody and the attendant facts and circumstances of the case, but without meaning to make any comment upon the merits of the case, I am of the considered opinion that the petition deserves to be allowed. Hence, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

7. Since the main petition has been allowed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

19th April, 2024

Parveen Sharma

1. Whether speaking/ reasoned	:	Yes
2. Whether reportable	:	Yes