

CRM-M-794-20241

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

224CRM-M-794-2024

Date of decision: 15.02.2024

Kulwant Singh @ Pamma...Petitioner

V/s

State of Punjab and another...Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Ruhani Chadha, Advocate for the petitioner.
Mr. Anup Singh AAG Punjab.
Mr. Ashok Giri, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

Pursuant to order of the preceding date, affidavit of Vatsala Gupta, Senior Superintendent of Police, District Kapurthala, has been filed in Court today. The same is taken on record.

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.124 dated 09.09.2023 (Annexure P/1), registered for the offences punishable under Sections 363, 365, 366-A, 506 and 120-B of IPC and Section 376 IPC (added later on) at Police Station Subhanpur, District Kapurthala.

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

“Statement of Shri Jasvir Singh son of Jarnail Singh son of Baaj Singh resident of Village Boot Police Station Subhanpur District Kapurthala aged around 45 years, Mobile no. 89683-44782, made a statement that I am resident of above said address and at present I am the official Panch of the Village Boot. I have four children, the eldest boy is Rajwinder Singh, younger to him is girl Harpreet Kaur and younger to her is girl Manpreet Kaur and the youngest boy is Rajinder Singh. In our neighbourhood Piara Singh son of Baghiar Singh lives in his own residence along with his family and relatives. The house next to them belongs to my sister-in-law wife of Udham Singh and they are relative with each other. Yesterday on dated 08.09.2023 the time would be around 10.30 PM that I was starting to rest after having meal with my family, then suddenly the gate of my house was knocked and my wife

Kulwinder Kaur opened the gate and behind her I also came outside near the gate. Then we saw that our neighbour Loddi wife of Piara Singh and her daughter Jeeta came and told us that Fateh Kaur's health has deteriorated and we have to take Fateh Kaur to the hospital for treatment and you send your daughter Manpreet Kaur with us to leave her home for some time. My wife Kulwinder Kaur sent the girl Manpreet Kaur with them and after about 15-20 minutes I and my wife Kulwinder Kaur also went to the house of Fateh Kaur. When we reached the street, we saw that there was a white un-numbered Scorpio car parked besides which Kulwant Singh alias Pamma son of son of Swaran Singh and Visakha Singh son of Tikka Singh of our Village were standing. Those who on seeing me and my wife, raised Lalkara at me and said that you become the official Punch, today will give you the result of the application which you have given against us against us to occupy the pond and they were holding Dattars in their hands. Before we could understand something from them, we saw that my daughter Manpreet Kaur was being held by Loddi wife of Piara Singh from hairs. One of her arm was held by Jeeta daughter of Piara Singh and other arm was held by Gurbachan Kaur wife of Tikka Singh. My daughter was trying to free herself from them and while we were watching, Babbu son of Piara Singh, Varinder Singh son of Piara Singh, Ram Singh son of Tikka Singh and others, they grabbed my daughter by her legs and waist and Vishaka Singh son of Tikka Singh suddenly opened the middle window of the Scorpio car and my daughter Manpreet Kaur who was trying to free herself from them, forcibly picked her up and threw her into the Scorpio car. I and my wife went forward begging them in a panic, then Jasvir Singh alias Sheer son of Tikka Singh gave blow on me with Dattar carrying in his hand and Kulwant Singh immediately started the vehicle and ran away and behind them Jasvir Singh alias Sheer, Visakha Singh son of Tikka Singh who are brothers fled away from the spot by raising Lalkaras and by giving threats to kill. Seen this sudden incident, my wife Kulwinder Kaur got unconscious and fell in the street. When I shouted high, then on hearing my voice my brother Paramjit Singh and my mother Parseen Kaur and other family members came and took my wife Kulwinder Kaur inside the house I told about this incident to my Village Numberdar Rajpal Singh, former Panch Kashmir Singh and other Village acquaintances over the phone, all of them started looking for the Scorpio car and the abductors on their respective vehicles and they continued to look for them till late night but they could not be found. All of them have forcibly abducted my daughter Manpreet Kaur and kept her detained in some unknown place and I am afraid that my daughter Manpreet Kaur will not be harmed. In this regard we also gave information at Police Station Subhanpur, while escaping from the spot, all the accused also threatened that your daughter Manpreet Kaur

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has to be married to Babbu and to dwell in front of you. What did you do against us by giving a complaint against us earlier also for taking over the village pond, even now, we have forcibly taken away your daughter, so what will you do now. I have now recorded my statement along with the numberdar Rajpal Singh of my village and the member Block Samiti Gurmeet Singh for taking legal action regarding what happened with us. I am the victim, legal action may be taken and justice be granted to me and to recover safely my daughter who is minor, from these accused. I also came to know that all of them had made a false excuse of illness of my sister-in-law Fateh Kaur. The statement has been recorded, heard and the same is correct. Verified Jasvir Singh above said Sd/- Rajpal Singh Numberdar, Verified Gurmeet Singh Member Block Samiti, Attested Sd/- Rajinder Kumar ASI Police Station Subhanpur District Kapurthala.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 23.10.2023 and investigation in the case has been completed. Learned counsel has further argued that, in fact, the victim-Manpreet Kaur was in a relationship with co-accused Nanak Singh and the police had also obtained CCTV footage of toll-plaza as also hotel(s) at Amritsar which clearly show that the victim-Manpreet Kaur and co-accused Nanak Singh were living together in such hotel(s) on their own violation. It has been further argued that the FIR in question is actually outcome of such relationship not being to the liking of the family of Manpreet Kaur. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel as well as learned counsel appearing for respondent No.2-complainant have 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 13.02.2024 in Court, which is taken on record.

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

6. The petitioner was arrested on 23.10.2023 whereinafter investigation has been carried out and challan was presented on 03.11.2023. Total 30 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of learned counsel for the parties, regarding the veracity and the weightage required to be attached to the CCTV footage of the toll-plaza and the hotel(s) & the case in hand being one of false implication, will 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 case of either parties. Further, no tangible material 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 13.02.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of about 03 months and 23 days & is not shown to to be involved in any other serious case. Suffice to say, further detention of the petitioner as an undertrial is not warranted.

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/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

February 15, 2024
Ajay

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