

PBGD010022372021



Presented on : 25-03-2021

Registered on : 25-03-2021

Decided on : 12.04.2021

**IN THE COURT OF SH. AJIT PAL SINGH
ADDITIONAL SESSIONS JUDGE, GURDASPUR.**

Unique Identification Code No. (PB0226)

Computer generated No. BA-1001-2021

Bail application no. 1001 of 25.03.2021

Date of order: 12.04.2021

Harjinder Kaur @ Rajinder Kaur wife of Kashmir Singh resident of village Jhuwar, Tehsil and District Gurdaspur at present c/o Mukhtiar Singh, Sunder Nagar, Amritsar.

---Accused/applicant

Versus

State of Punjab.

FIR No. 61 dated 24.06.2020

U/ss 376/363/366/120-B and Section 4
of Protection of Children From Sexual
Offence Act, 2012

P.S. Ghuman Kalan

BAIL APPLICATION U/S 439 CR.P.C

Present: Sh. H.S. Lakhanpal, Adv. counsel for accused/applicant.
Sh. Hardeep Kumar Addl.P.P for the State.

ORDER

1. This is an application seeking bail under Section 439 of Code of Criminal Procedure moved on behalf of above said accused/applicant Harjinder Kaur @ Rajinder Kaur in the aforementioned

FIR.

2. Notice of bail application was given to State. The learned APP for the State has put in appearance. Record has been perused.

3. In brief, prosecution story is that present case was registered on the statement of complainant Peter Masih son of Prem Masih to the effect that he was a labourer and has two children i.e. a son and a daughter. Her daughter is born on 17.10.2002 and is studying in +2 standard in Government Senior Secondary School. On 23.06.2020, he alongwith his wife and son had gone to village Mustfapur for sowing paddy crop. They left the prosecutrix at home. When he returned back alongwith his family members at 02:00 PM, then he found that prosecutrix was missing. When they checked their house, they found that clothes of the prosecutrix alongwith adhar card was also missing. They has been trying to trace her daughter, but to no avail. He stated that some unidentified persons had enticed her daughter by alluring her for marriage. On the basis of said statement present case was registered.

4. I have heard the learned counsel for accused-applicant, learned Additional PP for the State and have also perused the judicial record very minutely with their able assistance.

5. It is submitted in the application as well as argued on behalf of accused-applicant Harjinder Kaur @ Rajinder Kaur that she is in custody since long and due to eye disease and due to lack of medical

facilities in jail, her proper treatment is not possible. She is innocent and has not committed any offence as mentioned in the alleged FIR, but she has been falsely implicated by the police under political pressure. No offence is made against accused-applicant from the prosecution version. The complainant in this case was examined and declared hostile. The other two witnesses were examined in chief and they are also did not support the prosecution version. She is in judicial custody since long and her further detention is not required as nothing is to be recovered from her. The challan has already been presented, but the conclusion of trial will take long time and no useful purpose will be served by detaining her behind the bars for indefinite period. The accused-applicant will not flee from justice nor tamper with the prosecution evidence and will not leave India without prior permission of the court and will abide by all the terms and condition as imposed upon her. Finally he prayed for granting her regular bail.

6. Learned APP for the State vehemently opposed the contentions raised by learned counsel for accused/applicant and stated that serious allegations have been levelled against the present accused-applicant and in case, she is granted bail, she might try to hamper the process of trial and might also try to influence the prosecution witnesses and as such, she does not deserve the leniency of the court in grant of relief of regular bail and finally prayer for its dismissal has been made.

7. From the perusal of record and after hearing rival contentions

of both the parties, this court is of the considered view that initially the present FIR was registered against unknown person under Section 363/366 IPC. However, on the basis of supplementary statement of complainant, the present accused-applicant Harjinder Kaur @ Rajinder Kaur was nominated vide DDR no. 44 dated 06.07.2020 and offence under Section 376/120-B IPC and 4 of POCSO Act were added. The allegations against the present accused-applicant are that on her asking, Akashdeep Singh (non-applicant) took the prosecutrix to Gujrat and also that present accused-applicant was well aware regarding the relationship of prosecutrix with the main accused and she kept informing them telephonically regarding the series of event that were taking place in the present case. Thus an active role in hatching a criminal conspiracy with the other accused (non-applicant) in kidnapping the minor prosecutrix daughter of complainant has been attributed to the present accused-applicant. Merely the fact that prosecutrix has turned hostile, does not entitle the present accused-applicant to the concession of bail because the present case was registered on the statement of complainant, who is father of the minor prosecutrix and he alongwith his wife have been partly examined. Even otherwise, other material witnesses including doctors and the investigating officer are yet to be examined. More so, earlier bail applications under Section 439 Cr.PC of the accused-applicant has already been declined by learned predecessor of this court vide order dated 18.12.2020. There is every

likelihood that if accused/applicant is granted bail, she may attempt to hamper the process of the trial and influence the prosecution witnesses in one way or the other. At this stage, it is too early to jump to any conclusion for the purpose of bail. So, in light of the aforementioned circumstances, taking into consideration the gravity of the offences so involved, this court is not inclined to release the accused/applicant on bail. Consequently, the bail application of accused-applicant Harjinder Kaur @ Rajinder Kaur is dismissed.

8. Although this bail application is being dismissed, but it is made clear that nothing expressed in the said order shall have any bearing on the merits of the main case. Papers of application be tagged with the main file.

Date of Order : 12.04.2021

Dilbag Singh, Stenographer-II

(Ajit Pal Singh)

Additional Sessions Judge
Gurdaspur/UID No. PB0226