

**In the Court of Jaswinder Sheemar,
Additional Sessions Judge, Fatehgarh Sahib.**

**BA No. 1094 of 25.08.2022
CNR No:PBFG01003601-2022
Decided on:- 09.09.2022**

FIR No.150 dated 26.05.2022
Under Section 363, 366-A of IPC
Police Station Mandi Gobindgarh.

Bail Application Under Section 439 Cr.P.C.

Nanku @ Raj Kumar aged about 25 years now residing at Gali No.3,
Dashmesh Colony, Mandi Gobindgarh, Tehsil Amlah, District Fatehgarh
Sahib.

....Applicant

Versus

State of Punjab

....Respondent

Present: Sh. Mewa Singh, Advocate, for bail applicant.
Sh. Harkirat Singh, Ld.Addl.PP for the State assisted by Sh.
P.S. Syan Advocate.

ORDER:

1. This is **second** regular bail application U/s 439 of Cr.P.C filed
on behalf of **Nanku @ Raj Kumar** (hereinafter referred as **bail**

Jaswinder Sheemar, UID No. PB0093
Addl. Sessions Judge, Fatehgarh Sahib

applicant), in the above said FIR.

2. **Notice** of the bail application was issued to the State through Ld. Additional Public Prosecutor of the State.

3. The police record was requisitioned and perused.

4. It is vehemently contended by the Ld. counsel for the bail-applicant that the bail-applicant has been falsely implicated by the police at the instance of complainant/ informant. The challan of the case has already been presented before SDJM, Amloh and same was committed to the Ld.Sessions Judge, Fatehgarh Sahib, for 08.09.2022. The bail-applicant is innocent person and has no concern or connection with the alleged offence. The bail-applicant is only bread earner of his family. The bail-applicant is in judicial custody since 06.06.2022. The bail-applicant never kidnapped victim and never committed any wrong act with her. No offence is made out against the bail-applicant from the allegations mentioned in the FIR. Therefore, the bail-applicant is entitled to regular bail.

5. On the other hand, the learned Addl.Public Prosecutor for the state has vehemently refuted the contentions raised by the ld counsel for the bail-applicant by arguing that the victim was kidnapped by the bail-applicant from the lawful guardianship of her parents, on 20.05.2022 and

the victim was recovered from his possession on 05.06.2022. Therefore, it is not a fit case where the bail-applicant is entitled to regular bail, therefore, the bail application filed on behalf of bail-applicant be dismissed.

6. I have **heard** the Ld. Addl.PP for the State and the Ld. Counsel for the bail applicant and gone through the court record with their kind assistance.

7. From the police record, it comes out to surface that police machinery was set into motion by **Bittu Shah son of Tarlochan Shah (complainant/ informant)**, against the bail-applicant under sections **363, 366-A of IPC**. The complainant/ informant has levelled allegations that his daughter namely ---- (**name concealed in view of provision under Section 228-A IPC, hereinafter referred as "victim"**), aged 15 years was studying in Shaheed Bhagat Singh Memorial School, Dashmesh Colony, in 10th standard. On 20.05.2022, victim alongwith younger sister was present in the house, however, at about 4.00 PM, when he came back home at that time, victim telling him to see her friend and left home but she did not disclose the name of said friend. After some time, the complainant / informant came to know that the bail-applicant was in contact with victim with regard to which, the complainant/ informant was earlier had doubt but

now it was clear to him that he had kidnapped his daughter on the pretext of marrying her. The complainant/ informant has failed to locate victim at his own, therefore, he was left with no option except to report the matter.

8. It is observed that during investigations, on 05.06.2022, the bail-applicant and victim were intercepted. It comes out to surface that during investigations, the victim had produced before Medical Officer for the purpose of her medical examination, where she stated that the accused had no sexual intercourse with her, therefore, while suffering separate statement refused for her medical examination, therefore, as far as sexual offences under IPC and POCSO Act are concerned, no provision was attracted.

9. As far as the age of victim is concerned, there stated to be lots of topsy turby. It is worthwhile to mention here that during investigations, the date of birth of victim was got verified from the school wherein she was studying and as per the school record, the date of birth of the victim find mentioned as 29.09.2007. As per class 8th Detail Marks Card of victim, her date of birth is again mentioned as 29.09.2007. As per Aadhaar Card of the victim, her date of birth recorded as 18.09.2007, as per date of update 12.03.2013. Whereas as per the date of update i.e. 23.05.2022 in the

Aadhaar Card, her date of birth is mentioned as 29.09.2003, regarding which things are quite evident as to at why prior to the registration of FIR, the date of birth of victim is mentioned as 29.09.2003. Therefore, as far as recording of date of birth of victim is 29.09.2003 in Aadhaar Card, which was updated on 23.05.2022, the matter is required to be probed as to at whose instance, the date of birth of victim has been changed from 29.09.2007 to 29.09.2003 in Aadhar Card. Although the exact date of birth of victim is subject matter to be seen at the time of merits, yet, for the purpose of decision of the bail application, considering the date of birth of victim to be 29.09.2007, therefore, at the time of occurrence, the victim is less than 18 years of age, therefore, she was not competent to render valid consent. The complainant/ informant has levelled allegations against the bail-applicant that he has kidnapped the victim on the pretext of marrying her.

10. In the given set of facts and circumstances, I do not deem this case fit where the bail-applicant can be said to be entitled to regular bail. Therefore, the bail application filed on behalf of bail-applicant stands **dismissed** being devoid of merits.

11. The observations made by undersigned vide this Order will

have no reflection on merits.

12. Papers are ordered to be consigned to the record room.

Pronounced in open court.

Dt:- 09.09.2022

(Jaswinder Sheemar)
Additional Sessions Judge,
Fatehgarh Sahib.UID#PB0093

Manjinder Singh
Judgment Writer (Gr-II)

(directly dictated on the computer)

Jaswinder Sheemar,UID No. PB0093
Addl. Sessions Judge, Fatehgarh Sahib