

**IN THE COURT OF SHRI KRISHAN KUMAR SINGLA,
ADDITIONAL SESSIONS JUDGE,
HOSHIARPUR
UID No.PB00197**

CIS No. BA: 1573 of 2024
CNR No.PBHO0100 5011 2024
Date of Order: 09.07.2024

Jora @ Jora Singh about 18 years S/o Kashmira @ Shira R/o Vill.Denowal Khurd, PS Garhshankar, District Hoshiarpur.

.... Applicant/accused

vs.

State of Punjab

.... Respondent

FIR No.70 dated 23.04.2024
U/Ss 363, 109, 366 IPC
PS : Garhshankar, Hoshiarpur

First Bail Application under Section 439 Cr.PC

Present: Sh.Harjit Kumar Rana, Advocate, for applicant/accused
Sh.Nitin Berry, Addl.PP for the State assisted by Sh.Sandeep Kumar, Adv.

ORDER

1. This order of mine shall dispose of bail application filed by above named accused under Section 439 Cr.PC.

2. In brief the case of prosecution as per statement of complainant Giano that Raja is her son, who lives in England. He has five children and all the children are living in her care and custody. The victim girl is minor, whose date of birth is 24.09.2008. On 22.04.2024, all the family members went to sleep and prosecutrix was sleeping in lower portion of house. In the morning of 23.04.2024, she found that prosecutrix was missing from there.

(Krishan Kumar Singla)
Addl. Sessions Judge, Hoshiarpur
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She enquired about her from here and there, but to no effect. Her grand daughter i.e. prosecutrix has been taken away by accused Jora with intention to marry her in connivance with his father Kashmira @ Shira and mother Krishna @ Sandeep @ Sherni, in Alto car No. PB 24 D3 5768. On the basis of this statement of complainant, present FIR under Section 363, 366, 109 IPC was registered against all the accused.

3. Notice of bail application was given to the State upon which, learned Additional Public Prosecutor for the State assisted by Sh.Sandeep Kumar, Adv., has put in appearance .

4. Contention of learned counsel for applicant/accused is that accused has been falsely implicated in the present case. No such occurrence took place. The accused is in custody since 26.04.2024 and he is in judicial lock since then. The statement of complainant is not probable. The statement of victim U/s 164 Cr.P.C. was recorded. She did not speak with regard to the facts that accused took her forcibly. No allegation with regard to the kidnapping has been levelled by the victim. After recording statement of victim U/s 164 Cr.P.C., even supplementary statement of the complainant as well as victim was also recorded and victim did not say anything with regard to forcible kidnapping by the accused. The accused is unmarried and is also of a very young age. The girl is residing with her parents. It has been contended that co-accused namely Kashmira @ Shira has been granted regular bail by the predecessor of this court vide order dated 15.05.2024 and Krishna Rani has been granted benefit of anticipatory bail by the predecessor

of this court, vide order dated 06.05.2024. Further contention is that investigation in the present case is complete and in this eventuality, further custody of the accused is not required. Trial of the case may take sufficient long time. In last, he prayed that bail application may kindly be allowed.

5. On the other hand, learned Addl.P.P for the State assisted by Sh.Sandeep Kumar, Adv., has vehemently opposed the arguments advanced by learned counsel for the accused/applicant and has submitted that allegations levelled against the applicant/accused are serious in nature. It has been contended that true version of victim was not recorded by the police. Initially, police was not ready to get medical examination of the deceased conducted. So, because of this reason, application was moved by the victim before the court of Id. SDJM, Garhshankar, and one Crl.Misc.No.M-26652 of 2024 was also moved by the victim before the Hon'ble High Court of Punjab & Haryana, Chandigarh. Even thereafter also, true version of the complainant has not been recorded. It has been contended that reality is that minor victim was kidnapped and subjected to sexual assault by the applicant/accused. She is still under mental trauma. Accordingly, in the given circumstances, no case is made out for grant of regular bail to the applicant/accused as the allegations are serious. In last, he prayed for dismissal of the bail application.

6. Submissions have been considered and file perused.

7. In the present case, co-accused namely Kashmira @ Shira has been granted regular bail by the predecessor of this court vide order dated

15.05.2024 and Krishna Rani has been granted benefit of anticipatory bail by the predecessor of this court, vide order dated 06.05.2024. From the police record i.e. challan submitted by the police, it comes out that in her statement recorded U/s 164 Cr.P.C. and in the supplementary statement of victim recorded on 15.06.2024, victim categorically stated that she with her own wish went with the applicant/accused to Mata Jwalaji where they stayed in a hotel and no allegation with regard to any sexual assault were levelled by victim against the applicant/accused. Id. Counsel for complainant by bringing on record copy of order dated 24.05.2024 passed in Crl.Misc.No.M-26652 of 2024 and copy of order passed by the Id. SDJM, Garhshankar, dated 07.05.2024 on file, has argued that realty is that minor victim was kidnapped and subjected to sexual assault by accused and this fact was not recorded by the police. This court considers that it is strange that after moving to Id. SDJM, Garhshankar, as is clear from the said order and after moving to the Hon'ble High Court, through Crl.Misc.No.M-26652 of 2024,, victim in her supplementary statement sill will not record this fact that she was kidnapped and subjected to sexual assault. Still this court considers that as per the Crl.Misc.No.M-26652 of 2024, moved by the victim, her version of victim which was not recorded by the police at the most is that she was kidnapped and subjected to sexual assault by applicant/accused.

8. In this case, applicant/accused is in custody since 26.04.2024. The allegations are matter of proof. Investigation is complete and

admittedly, challan has been presented. This court considers that in the facts and circumstances of the present case, accused cannot be kept in custody for indefinite period. So, bail application stands allowed and accused is ordered to be released on bail subject to furnishing bail bonds in the sum of Rs.70,000/- with one surety in the like amount to the satisfaction of learned Illaqa/Duty Magistrate subject to the following conditions.

(i) That accused/applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

(ii) That accused/applicant shall not leave the country without prior permission of the court.

(iii) That accused/applicant shall appear in the court on each and every date of hearing.

9. Police record be returned. File be consigned to the record room.

Pronounced:09.07.2024

Rakesh Kumar, Steno

(Krishan Kumar Singla)
Additional Sessions Judge,
Hoshiarpur
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Sh.Nitin Berry, Addl.PP for the State assisted by Sh.Sandeep
Kumar, Adv.

Police record produced. Arguments heard. Vide my separate
detailed order of even date, the bail application stands allowed. Police record
be returned. Bail application file be consigned to record room.

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