

**HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

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**CRM-M-13821-2023**

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AMAN

V/S

STATE OF PUNJAB

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Present: Mr. Jagjeet Singh, Advocate for the petitioner

Mr. Anmol Singh Sandhu, AAG Punjab

Ms. Abha Kashyap, Advocate for

Mr. Arvind Kashyap, Advocate for respondent No.2

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This petition has been filed by the petitioner seeking regular bail in FIR No.133, dated 06.11.2022, under Sections 363, 365 of IPC, 1860, registered at Police Station Division No.1, Pathankot (Annexure P-1) on the allegation that the daughter of the complainant, namely, Alisha – a minor has been allegedly kidnapped by the petitioner as against the fact that it was the petitioner who had referred to certain photographs of CCTV footage (Annexure P5) of nearby place to show that Alisha is alive and has been found wondering freely sitting as pillion rider on a Activa.

Taking into consideration the casual manner of investigation conducted by the SIT in relation to the photographs and CCTV footage, as also the fact that the petitioner was behind the bars since 1 year and 2 months, this Court vide order dated 15.01.2024 granted regular bail to the petitioner and directed the Senior Superintendent of Police, Pathankot to come present and explain the progress and the manner in which the investigation is being carried out.

In deference to the order dated 15.01.2024 passed by this Court, an affidavit dated 17.01.2024 has been filed by Mr. Daljinder Singh Dhillon, PPS, Senior Superintendent of Police, District Pathankot, which is taken on record. Copy of the same has been furnished to counsel for the petitioner as well, who prays for time to go through the same and file counter thereto.

While granting the concession of regular bail on 15.01.2024, this Court observed that the prosecution is otherwise not taking interest in the trial proceedings, wherein after framing of charges on 03.05.2023, no prosecution witnesses has been examined so far out of total listed 16 such witnesses and in that eventuality keeping the petitioner for an indefinite period behind the bars on account of delay in the trial proceedings, which is not attributable to him, tantamount to infringement of right to life and liberty.

In the light of categorical assertion of the petitioner that the allegedly missing girl namely Alisha is very well living safely in the company of the complainant namely Deepika (mother of Alisha), who has been seen near the old Court Complex, Pathankot at about 2:30 p.m. on 11.02.2023 and even thereafter on regular basis taking a ride on pillion seat of an activa with some male member and in support thereof, he produced certain photographs and still pictures from the CCTV footage affixed in that area.

Mr. Daljinder Singh Dhillon, PPS, Senior Superintendent of Police, Pathankot was requested to come present in Court for assistance, who has submitted a status report by way of his own affidavit, to say that the instant FIR was registered on 06.11.2022 but he has joined as SSP, Pathankot only on 21.11.2023. As per the declaration in the affidavit as well, he perused the record of case file only after passing of the order dated 15.01.2024 and in para

5 of the said affidavit, it has been stated that Special Investigation Team (SIT) was constituted on 27.12.2022, under the Chairmanship of Superintendent of Police (Investigation), District Pathankot, Deputy Superintendent of Police, Sub Division City Pathankot-member and Deputy Superintendent of Police, Investigation, Pathankot-member to investigate the matter. According to law, the investigation was carried out but the missing girl Alisha is untraced. He stated before this Court while appearing in person that though challan under Section 173 Cr.P.C. has already been presented in the Court but a prayer has been made that supplementary challan will be submitted on completion of investigation. As per efforts made by SIT, it has been brought on record that both the sides of kanal along with upstream barrage have been searched and call details record of victim Alisha and that of accused were procured and after examination nothing incriminating could be found.

Mr. Dhillon, though made an attempt to convince the Court that after passing of order dated 15.01.2024 and on perusal of the police file the DVR of CCTV shows that presence of victim as a pillion rider on a scooty after registration of FIR is not on record and a show cause notice has been issued to the SIT on 17.01.2024 against which appropriate action in accordance with law for such a faulty investigation would be initiated at the earliest.

However in furtherance thereafter also, this Court fails to accept the explanation given in the affidavit that on 16.01.2024, the DVR of CCTV has been sent to the FSL for further examination and statement of mother of the victim Alisha as well as one Geeta Devi has been recorded after showing them the photographs attached with the present petition, to which the mother of Alisha has denied to recognize her.

On a query put by this Court, Mr. Dhillon, on instructions from Mr. Sumeer Singh, PPS, DSP, City Pathankot, who is present in Court who is also the member of SIT states that mother of the victim namely Deepika has not been countered, to show the other photographs of the victim Alisha and the basis on which she is denying the girl in the photographs to be not that of Alisha and candidly submits that the investigation suffers from certain loopholes.

On the annoyance of this Court, of such irresponsible and callous approach of a senior police officer, who are the member of SIT, which includes the rank of Superintendent of Police, Investigation, Deputy Superintendent of Police, Sub Division, Pathankot and Deputy Superintendent of Police, Investigation, Pathankot, Mr. Dhillon, PPS, Senior Superintendent of Police, Pathankot undertakes to head the SIT himself and to make all possible endeavors to trace out the girl after conducting investigation from all angles including that whether the complaint on the basis of which the present FIR has been instituted against the petitioner is genuine or not.

This Court cannot shut its eyes and ignore the larger interest while exercising inherent powers vested under Section 482 Cr.P.C. that it is not merely a question of considering the regular bail of the petitioner, who is 20 years old young boy and on the other hand a minor girl, who is less than 16 years of age and it is a question before the investigating agency and law enforcing agency of the State, to exercise all kinds of care and caution for protecting the lives and liberty of two individuals ensuring that even the petitioner should not be put to unwarranted investigation, if at all the

complainant is playing smart, as there is every likelihood of such a counter by parents of a minor girl, as is circumstances involved in the instant case.

In addition to above, Mr. Dhillon, PPS, Senior Superintendent of Police, Pathankot is directed to ensure that report from the FSL concerned be speeded up and an affidavit in this regard as well as the day to day progress of the investigation be filed before this Court on the next date of hearing.

At this stage, counsel for the petitioner informs that recorded CCTV footage in the form of CD/DVR has also been handed over to Inspector Harpreet Kaur.

Post again on 29.01.2024.

18.01.2024  
*V. Vishal*

**(Sandeep Moudgil)**  
**Judge**