

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr. MP (M) No. 11344 of 2013.

Decided on: 30th August, 2013

Anoop Kumar

.....Petitioner.

Versus

State of H.P.

.....Respondent.

Coram

The Hon'ble Mr. Justice Dharam Chand Chaudhary, Judge.

Whether approved for reporting?¹ No.

For the petitioner : Mr. Mukul Sood & Mr. Ashok K. Tyagi, Advocates.

For the Respondent : Mr. D.S. Nainta & Mr. Virender Verma, Addl. A.Gs.

Dharam Chand Chaudhary, J. (oral).

The petitioner is an accused in FIR No.156/13, registered against him in Police Station, Palampur, District Kangra under Sections 363 and 366 of the Indian Penal Code with the allegations that on 31.7.2013, he kidnapped the prosecutrix, a minor girl, below 16 years of age from lawful custody of her mother Smt. Kanta Devi, the complainant. The cause behind it was stated to be enmity with the parents of the accused-petitioner as according to the complainant they used to harass her earlier also and threatening to kidnap her daughter. Immediately after lodging of report, police swung into action and the efforts were made to trace out the

¹ Whether reporters of Local Papers may be allowed to see the judgment?

prosecutrix. On the next date i.e. 1.8.2013, the complainant, however, herself came to the police station along with the prosecutrix. The statement of the prosecutrix was recorded. She was taken to Hospital for medical examination. She however, refused to undergo any such examination. Investigation in the case is almost complete. The accused-petitioner also remained associated with police for the purpose of interrogation. Similar application filed by the accused-petitioner in the court of Sessions has been dismissed by Additional Sessions Judge-I, Kangra at Dharamshala vide order dated 19.8.2013 annexed to this petition.

2. True it is that the offence, the accused-petitioner allegedly committed is heinous one, however, in view of the investigation conducted at this stage and the evidence collected by the police it is the appropriate court, which could form an opinion as to whether any such offence is made out from the perusal thereof or not. So far as the application of this nature is concerned at the time of consideration thereof, the detailed examination of the evidence available on record should be avoided as in that event prejudice may cause to the case of either party. The gravity and seriousness of the offence allegedly committed alone are not the factors need to be taken into consideration at the stage of consideration of an application of this nature. The factors such as existence of

case against the accused-petitioner, likelihood of his fleeing away or jumping over the bail, his past criminal history and the likelihood of the commission of similar offence while on bail also weigh in the mind of the Court.

3. Having gone through the record and also taking into consideration the rival submissions, I find the present a fit case where in the event of arrest of the accused petitioner in connection with the case registered against him, he deserves to be released on bail for the reason that he is permanent resident of District Kangra and as such there is no likelihood of his fleeing away from justice or jumping over the bail. There is no past criminal history into his credit. His movement can otherwise be restricted by imposing suitable conditions. I thus accept this application. It is ordered that in the event of the arrest of the accused-petitioner in connection with FIR No.156/13, registered in Police Station, Palampur, he shall be released on bail, subject to his furnishing personal bond in the sum of ₹50,000/- with one surety in the like amount to the satisfaction of the Chief Judicial Magistrate, Kangra at Dharamshala. He shall further abide by the following conditions:-

- a. He shall make himself available for interrogation as and when required and shall cooperate with the investigating Officer to conduct the

investigation in a manner so as to take it to its logical end;

- b. He shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;
- c. He shall not make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or the Police officer; and
- d. He shall not leave the territory of India without the prior permission of the Court.

4. It is clarified that if the petitioner misuses his liberty or violates any of the conditions imposed upon him; the Investigating Agency shall be free to move this Court for cancellation of the bail.

5. The observations hereinabove shall remain confined to the disposal of this petition and have no bearing on the merits of the case. The application stands disposed of.

Copy Dasti.

August 30, 2013
(ps)

(Dharam Chand Chaudhary),
Judge.